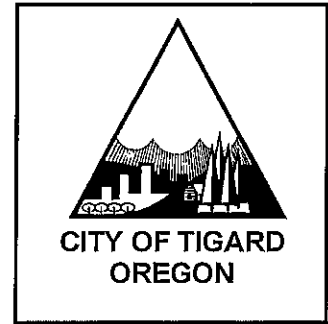
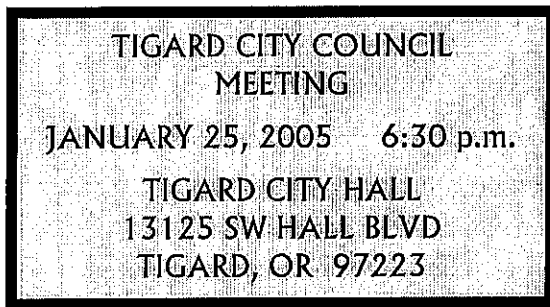


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Greeter: Margaret Barnes

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#### PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A  
TIGARD CITY COUNCIL MEETING  
JANUARY 25, 2005 – 6:30 PM

6:30 PM

- STUDY SESSION

- > JOINT MEETING WITH THE BUDGET COMMITTEE
  - o Craig Prosser, Finance Director
- > LOCAL CONTRACT REVIEW BOARD UPDATE AND FEEDBACK ON REVISED PURCHASING AND CONTRACTING ADMINISTRATIVE RULES
  - o Finance Director, Craig Prosser
- > CITY MANAGER 360 REVIEW DISCUSSION PROCESS UPDATE (Continued from December 14, 2004)
  - o Human Resources Director, Sandy Zodrow
- > CITY ATTORNEY TRAINING ON LAND USE PROCESS

- EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to discuss pending litigation under ORS 192.660(2)(h). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

- 1. BUSINESS MEETING

- 1.1 Call to Order - City Council & Local Contract Review Board
- 1.2 Roll Call
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports
- 1.5 Call to Council and Staff for Non-Agenda Items

2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)

- Follow-up to Previous Citizen Communication
3. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:
- 3.1 Approve Council Minutes for December 14, 20 and 28, 2004
  - 3.2 Receive and File:
    - Fourth Quarter 2004 Council Goal Update
  - 3.3 Approve Intergovernmental Agreement Between City of Tigard and Clean Water Services
  - 3.4 Local Contract Review Board:
    - a. Award Citywide Janitorial Services Contract to Wellspring Services, a Division of Cascadia Behavioral Healthcare
    - b. Approve Amendment to Engineering Services Contract for Murray Smith & Associates, Inc., for Design of a 550-Foot Zone Reservoir No. 2
    - c. Receive and File: Agent of Record Contract – Service Fee Reduction
  - Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.
4. ELECT COUNCIL PRESIDENT TO SERVE UNTIL DECEMBER 31, 2006
- a. Nominations
  - b. Council Action: Cast Ballots
5. TIGARD VISION UPDATE REPORT
- a. Staff Report: Liz Newton, Assistant to the City Manager and Loreen Mills, Risk Manager
  - b. Council Discussion
6. UPDATE ON THE LIBRARY STRATEGIC PLAN AND OPERATIONAL HOURS
- a. Staff Report: Margaret Barnes, Library Director
  - b. Council Discussion

7. **CONSIDER AFFORDABLE HOUSING FEE ASSISTANCE REQUEST**
- a. Staff Report: Jim Hendryx, Community Development Director
  - b. Council Discussion
  - c. Council Consideration: Motion to approve the housing fee assistance request(s).

8. **PUBLIC HEARING (LEGISLATIVE) – ZONE ORDINANCE AMENDMENT INCORPORATING FEMA REQUIREMENTS (ZOA 2004-00002) COMPREHENSIVE PLAN AMENDMENT (CPA) 2004-00003/ZONE ORDINANCE AMENDMENT (ZOA) 2004-00002**

**REQUEST:** The Federal Emergency Management Agency (FEMA) has required the City, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt floodplain management regulations that meet NFIP standards. Therefore, to meet these standards, the City proposes to amend Chapter 3, Natural Features and Open Space, Volume II of the Comprehensive Plan and the Sensitive Lands chapter 18.775 of the Tigard Development Code by revising references to the updated FEMA Flood Impact Study (FIS) and Flood Insurance Rate Map (FIRM), effective February 18, 2005, and regulating recreational vehicles located in the 100-year floodplain. **LOCATION:** The 100-year floodplain within the City of Tigard's incorporated boundary. **COMPREHENSIVE PLAN DESIGNATION:** All designations within the floodplain. **ZONE:** All zones within the floodplain. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.380, 18.390 and 18.775; Comprehensive Plan Policies 1.1.1, 2.1.1, 2.1.2 and 3.2; the Metro 2040 Plan; and Statewide Planning Goals 1, 5 and 7.

- a. Open Public Hearing
- b. Staff Report: Jim Hendryx, Community Development Director
- c. Public Testimony
- d. Staff Recommendation
- e. Council Discussion
- f. Close Public Hearing
- g. Council Consideration: Resolution No. 05-\_\_\_\_\_

9. PUBLIC HEARING (INFORMATIONAL) – CONSIDER RESOLUTION FORMING  
SANITARY SEWER REIMBURSEMENT DISTRICT NO. 32 (Fern Street)

- a. Open Public Hearing
- b. Summation by Gus Duenas, City Engineer
- c. Public Testimony
- d. Staff Recommendation
- e. Council Discussion
- f. Close Public Hearing
- g. Council Consideration: Resolution No. 05-\_\_\_\_\_

10. CONSIDER ORDINANCE TO ADOPT TUALATIN VALLEY FIRE & RESCUE'S  
ORDINANCE 04-01 AMENDING THE 2004 FIRE CODE AND DECLARING AN  
EMERGENCY

- a. Staff Report: Jim Hendryx, Community Development Director
- b. Council Discussion
- c. Council Consideration: Ordinance NO. 05-\_\_\_\_\_

11. COUNCIL LIAISON REPORTS

12. NON AGENDA ITEMS

13. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

14. ADJOURNMENT

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***Budget Committee Agenda***

January 25, 2005, 6:30 p.m.

Town Hall

1. Budget Amendments – Report on actual and planned Budget Amendments in FY 2004-05
2. Preliminary Financial Forecast – Preliminary outlook for 2005 – 20010
3. Budget Calendar
4. FY 2005-06 Budget Principles
5. Draft 2005 Strategic Finance Plan
6. Social Service Subcommittee Membership

Copy of letter sent to Budget Committee

December 17, 2004

Dear

The next meeting of the Tigard Budget Committee is scheduled for Tuesday, January 25, 2005 at 6:30 pm in Red Rock Creek conference room, 13125 SW Hall Blvd. This meeting will occur during a regular Council Study session prior to the Council business meeting. Enclosed with this letter is an agenda for the Budget Committee portion of this meeting.

We expect the Budget Committee portion of this meeting to last approximately 30 minutes. The Council will have other items on the study session agenda, however, that may be of interest to Budget Committee members, so we encourage you to stay for those items. One other item on the workshop agenda that may be of interest to you is review of changes in State Purchasing rules and gathering Council input on possible changes in Tigard Purchasing rules.

Please contact Maureen Denny at 503-718-2487 or [maureen@ci.tigard.or.us](mailto:maureen@ci.tigard.or.us) to confirm your attendance at this meeting.

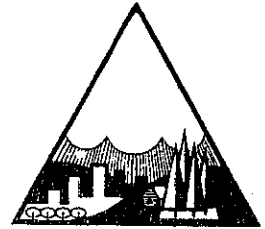
I look forward to seeing you on the 25<sup>th</sup>. I hope you have a very happy holiday season

Sincerely,

Craig Prosser, Finance Director

cc: Bill Monahan, City Manager  
Tom Imdieke, Financial Operations and Planning Manager  
Michelle Wareing, Management Analyst

## MEMORANDUM



**To:** Tigard Local Contract Review Board Members  
**From:** Joe Barrett, Buyer  
**Re:** Revision of City's Purchasing and Contracting Administrative Rules  
**Date:** January 11, 2005

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On March 1<sup>st</sup> of this year, significant revisions to Oregon Revised Statue (ORS) 279, the guiding statute for governmental procurement in the State of Oregon, will go into effect. All agencies within the State must have rules conforming to the revised statute on this date or they will fall under the direction of the Attorney General's model rules. In accordance with this mandate, staff has initiated a proposed rewrite of the City's current Purchasing and Contracting Administrative Rules (Purchasing Rules) in order to meet the new requirements. Staff will present the recommended changes to these rules to the Local Contract Review Board (LCRB) at it's January 25, 2005 study session.

Under state law, all contract and purchasing rules used by the City must be approved by a Local Contract Review Board. Under Tigard Municipal Code (TMC) 2.46.030 (1), the City Council is the City's acting Local Contract Review Board. The LCRB is to have all the powers that may be exercised in the State at large and shall adopt rules governing the awarding of City contracts and bidding procedures. The LCRB also will authorize formal contracts throughout the year as well review and vote on any waivers, exemptions, or other issues involving the adopted rules.

In addition to the changes required in order for the Purchasing Rules to conform to the revised ORS 279, staff will also be recommending changes that will modernize the City's Purchasing Rules. While the changes made to ORS 279 are intended to streamline public purchasing in the State of Oregon, there are also aspects of the City's Purchasing Rules outside of the scope these changes that should be reviewed and possibly altered. Staff intends to combine these two aspects of change into a recommended revision to the City's Purchasing Rules.

As ORS 279 had not seen a major revision in a couple of decades, and nearly every legislative session has modified the statute in a some way or another, the statue had become confusing and dated. The practical application of the statue was for public improvement projects. For most other forms of procurement, the statue didn't really fit. The statue will, as of March 1<sup>st</sup>, consist of parts A, B, and C and will specifically address non-public improvement procurement.

One of the key issues staff will be recommending the LCRB consider is raising the dollar level exemption figures. The currently levels have not been addressed in a number of years and staff believes it to be in the City's best interest to bring these levels more in line with other agencies. The following chart details staff's recommends levels:

Level	Current \$	Proposed \$	New State \$	Solicitation Method
Small	↓ \$2,500	↓ \$5,000	↓ \$5,000	Obtain quotes as feasible
Intermediate	↓ \$24,999	↓ \$49,000	↓ \$149,999	Obtain three quotes/proposals
Formal	↑ \$25,000	↑ \$50,000	↑ \$150,000	ITB/RFP Required

Staff also will recommend the LCRB consider a higher formal threshold for public improvement contracts. Staff recommends a level of \$75,000 (up from \$25,000) for these contracts (\$50,000 for transportation related contracts, i.e. roads, bridges, etc.).

Another issue that will be addressed in the revised Purchasing Rules is the City's policy on Minority-owned, Women-owned, and Emerging Small Businesses (MWESBs). Under ORS 200.090, the City is required to aggressively pursue a policy providing contracting opportunities to these classes of businesses. During the rewrite staff will work on developing a recommended policy to include in the Purchasing Rules and will present the recommendation and analysis the LCRB for review and approval.

Staff has been working closely with the City Attorney, along with the Cities of Milwaukie and West Linn, on a draft of the proposed new Administrative Rules. At the January 25, 2005 City Council meeting, staff intends to bring a draft of the recommended revisions, supporting findings, and handouts of the key changes, before the Board. This will be an opportunity for the Board to review, discuss, and provided guidance to staff. Staff will then, based upon the recommendations of the Board, prepare a final revision of the Purchasing Rules and present them to the Board for approval at its February 22, 2005 meeting. This schedule will allow the revisions to the City's Rules to be in effect on the required March 1, 2005 date.

cc: Bill Monahan  
Liz Newton  
Craig Prosser  
Tom Imdieke

COUNCIL MINUTES  
TIGARD CITY COUNCIL MEETING  
December 14, 2004

The meeting was called to order at 6:10 p.m. by Mayor Dirksen.

Council Present: Mayor Dirksen, Councilors Moore, Sherwood, Wilson, and Woodruff

- STUDY SESSION

- MEET WITH TIGARD-TUALATIN SCHOOL DISTRICT CONSULTANT ON RECRUITMENT

Tigard-Tualatin School Board Member Barry Albertson and Oregon School Boards Association Representative Greg McKenzie were present to discuss with the City Council the process the School District will follow to recruit a new superintendent. Superintendent Lowder has notified the District of his plans to seek another post in California. Mr. Albertson advised that the School District is asking all identified stakeholder groups to share with the District the attributes desired in a superintendent. Council members offered the following suggestions:

- previous experience as a superintendent or an assistant to someone in that role
- fiscally astute
- someone who will want to make this post a long-lasting career (i.e., 10 years)
- experience working with other governmental jurisdictions
- interested in maintaining the good relationships with the city and state agencies
- continued regular interaction with the City Manager and Chief of Police
- politically astute
- possesses a good public persona
- consensus builder
- community oriented
- continuation of the current good relationships

Mr. Albertson and Mr. McKenzie reviewed in more detail the process for recruitment. Mayor Dirksen thanked the School District representatives for the opportunity to give input.

➤ CITY MANAGER 360 PERFORMANCE REVIEW DISCUSSION

Council members discussed participation of raters for the 360 performance review of the City Manager. Human Resources Director Zodrow was present and participated in the discussion on this item.

Consensus of the Council was to include the following individuals as raters:

- Current Mayor & Council members
- City of Tigard Department heads ("direct reports")
- One or Two Peers to the City Manager (i.e., Washington County Administrator and/or the City of Tualatin City Manager)
- Two members from the community (Council discussed a number of individuals for this category including the Planning Commission President, Washington County Board Chair and Councilor Moore, who will be leaving the Council at the end of the year. The names of these two individuals will be submitted to the Human Resources Director.)

There was discussion about review components. It was suggested that raters be advised they could place an "N/A" in those areas where they do not feel they are qualified to comment because they do not interact with the City Manager in a particular situation or area that is being rated.

Ms. Zodrow reviewed the timeline and it appears that the review could be conducted in March. This item will be discussed again at the January 25, 2005, Council meeting.

➤ COUNCIL DESIGNATION OF VICE CHAIR FOR JOINT WATER COMMISSION

Councilor Woodruff agreed to serve as the Vice Chair for the Joint Water Commission.

➤ CITIZEN REPRESENTATIVE TO WCCCA BUDGET COMMITTEE – REAPPOINT BOB ROHLF

No decision on this appointment was made. Mayor Dirksen will discuss this with City Manager Monahan.

➤ CITY HALL CABLE DISCUSSION

IT Director Ehrenfeld was present to discuss this item. Council received a memo dated December 10, 2004, from Mr. Ehrenfeld regarding computer and phone cables for City Hall. After brief discussion, Council consensus was to proceed with the installation of new cabling and wiring for City Hall for phones, computers, scanners, copiers and fax machines. Funding authorization was requested (see Consent Agenda Item No. 3.5).

➤ BUDGET PRINCIPLES AND STRATEGIC FINANCE PLAN DISCUSSION

Finance Director Prosser distributed to the Council members two items:

1. FY 2005-06 Executive Staff Budget Principles
2. Draft Strategic Finance Plan (12-14-04 memorandum from Finance Director Prosser to the Mayor and Council, with the Strategic Plan attached for Council review).

Mr. Prosser briefly described the documents and advised this information was being provided to the Council for review before the January 18, 2005 goal-setting meeting.

In addition, Mr. Prosser advised that a joint meeting with the Budget Committee members is scheduled for the January 25 Council meeting to review financial forecast information.

➤ MEASURE 37 UPDATE

This topic appears as Item No. 7 on the Business Agenda for this meeting. City Attorney Ramis reviewed with the Council the proposed ordinances, which would provide a process for written demands for compensation under Ballot Measure 37. Two ordinances were presented to the Council representing one option that would revise Ordinance No. 04-12 to include a requirement for a deposit and submittal information. Mr. Ramis reviewed the deposit and deposit refund provisions of the ordinance. The second ordinance option included a provision for actions by neighboring property owners. City Attorney Ramis confirmed that these provisions are available to property owners regardless of whether this language is included in the Tigard legislation and this would serve as another place for information about this option for residents to use if they have issues concerning their property because of a neighbor's actions.

Council briefly discussed the pros and cons of the proposed ordinances and some of the scenarios that may occur. It was noted that this ordinance can be further amended at a later time if needed.

➤ ADMINISTRATIVE ITEMS

- Council received a copy of a revised legal description for Option 1 regarding the Annexation Public Hearing (Agenda Item No. 8, listed below).

EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 7:20 p.m. as provided by ORS 192.660 (2) h to discuss pending litigation.

Executive Session concluded at 7:30 p.m.

1. BUSINESS MEETING

- 1.1 Call to Order – Mayor Dirksen called the City Council & Local Contract Review Board to order at 7:40 p.m.
- 1.2 Roll Call – Mayor Dirksen and Councilors Moore, Sherwood, Wilson, and Woodruff were present.
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports  
  
Council Woodruff commented that the 5<sup>th</sup> Tuesday meeting held on November 30, 2004, went well.
- 1.5 Call to Council and Staff for Non-Agenda Items: None

2. CITIZEN COMMUNICATION

- Bruce Dalrymple, Tualatin Hills Park & Recreation District Board President asked that additional testimony be received on the Parks System Development Charges, which would be considered by Council later in the meeting (Agenda Item No. 6). After brief discussion among the Council members and staff, Mayor Dirksen advised that short testimony would be heard during that item with it being noted that public hearing had already been conducted at a previous Council meeting. Mr. Frewing had also signed in on the Citizen Communication register for this item and his testimony would be heard during the Council review of this item.
- Gretchen Buehner, 13429 SW 136<sup>th</sup>, Tigard, OR 97223, urged the Council to consider, with open and complete discussion, the City policy of islands and annexation in the near future. She said Tigard has a number of islands and she referred to the Metzger and Bull Mountain areas.

- Tigard High School Student Envoy Nikki Pham distributed information and gave a report about recent and upcoming activities at Tigard High School.
- Tigard Area Chamber of Commerce Dan Murphy reviewed the upcoming Chamber of Commerce events planned for December and January.
- Follow-up to Previous Citizen Communication

City Manager Monahan reported that for follow up to the November 23, 2004, City Council meeting, the two items raised by Norman Russell and Ed Duffield regarding the Edgewood neighborhood were resolved at that meeting. He reviewed Mr. Russell's and Mr. Duffield's concerns about a multi-family development. At that meeting, Mayor Dirksen noted that Clean Water Services and Tualatin Valley Fire & Rescue reviews all applications and is required to sign off on them before any permits are issued.

Youth Advisory Council President Williams reviewed the Consent Agenda:

3. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:

- 3.1 Approve Council Minutes for November 9 and November 15, 2004
- 3.2 Receive and File
  - a. Council Calendar
  - b. Tentative Agenda
  - c. Canvass of Votes for Mayor, Two City Councilor Positions, and Bull Mountain Annexation Measure-November 2, 2004 Election
- 3.3 Local Contract Review Board:
  - a. Approve the purchase of a Chevrolet police pursuit Tahoe Sport Utility vehicle
  - b. Approve the purchase of two Ford F-250 pick-up trucks for the Public Works Division
  - c. Approve the purchase of three Ford F-350 pick-up trucks for the Public Works Division
- 3.4 Amend City Manager's Employment Agreement Confirming Health Insurance Benefits – Resolution No. 04-92

A RESOLUTION APPROVING AN AMENDMENT TO CITY MANAGER WILLIAM A. MONAHAN'S EMPLOYMENT AGREEMENT WITH THE CITY OF TIGARD, CORRECTING HEALTH INSURANCE BENEFITS

- 3.5 Approve Budget Amendment No. 7 to the FY 2004-05 Budget to Increase Appropriations in the Facility Fund for the Upgrade of the Wiring System in City Hall – Resolution No. 04- 93

A RESOLUTION APPROVING BUDGET AMENDMENT #7 TO THE FY 2004-05 BUDGET TO INCREASE APPROPRIATIONS IN THE FACILITY FUND FOR THE WIRING/CABLING SYSTEM OF CITY HALL

- 3.6 Approve Budget Amendment No. 5 to the FY 2004-05 Budget to Increase Appropriations in the Community Services Program to Establish a Residential Services Agency Emergency Fund – Resolution No. 04-94

A RESOLUTION APPROVING BUDGET AMENDMENT #5 TO THE FY 2004-05 BUDGET TO INCREASE APPROPRIATIONS IN THE COMMUNITY SERVICES PROGRAM TO ESTABLISH A RESIDENTIAL SERVICES AGENCY EMERGENCY FUND

Motion by Councilor Moore, seconded by Councilor Sherwood, to approve the Consent Agenda.

The Consent Agenda was approved by a unanimous vote of Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff:	Yes

4. CONSIDER A RESOLUTION RECOGNIZING MELVIN WALKER FOR TWENTY-THREE YEARS OF SERVICE WITH THE CITY OF TIGARD

- a. Dennis Koellermeier, Public Works Director, presented this agenda item. He noted that Melvin Walker has been an employee of the City of Tigard since 1981. The Public Works staff will miss Mel and wish him well in his retirement.
- b. Mayor Dirksen read the proposed resolution recognizing Mr. Walker after which Mr. Walker presented to the City Manager some work overalls and requested that the City Manager report for duty. The Mayor and City Manager thanked Mr. Walker for his years of service and wished him well in the future.
- c. Motion by Councilor Wilson, seconded by Councilor Woodruff, to approve Resolution No. 04-95.

RESOLUTION NO. 04-95 – A RESOLUTION RECOGNIZING MELVIN WALKER FOR TWENTY-THREE YEARS OF SERVICE WITH THE CITY OF TIGARD

Resolution No. 04-95 was approved by a unanimous vote of Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff:	Yes

➤ CERTIFICATE OF RECOGNITION TO COUNCILOR BRIAN MOORE

Mayor Dirksen presented a Certificate of Recognition to Councilor Brian Moore, whose term of office expires December 31, 2004. Councilor Moore served more than 12 years as a Board and Committee Member, City Councilor, Council President and Mayor Pro-Tem.

Councilor Moore expressed appreciation to the management and employees of the City who contribute so much. He noted he has worked with a number of different Mayors and Council members who were dedicated to the City's well being. He thanked the citizens for allowing him to work for the City.

5. PUBLIC HEARING – RESOLUTION TO DECLARE REAL PROPERTY LOCATED AT 14040 SW 117TH AVENUE AS SURPLUS AND AUTHORIZE STAFF TO CARRY OUT THE SALE OF SAID PROPERTY.

- a. Mayor Dirksen opened the public hearing.
- b. Buyer Joe Barrett summarized the staff report, which is on file in the City Recorder's office. The issue before the Council was to consider whether to declare the property located at 14040 SW 117<sup>th</sup> Avenue as surplus property and authorize the City Manager or designee to offer the property for sale and negotiate the final price and terms of sale.
- c. Public Testimony: None
- d. Staff recommendation was to declare the property as surplus and authorize the City Manager or designee to offer the property for sale and negotiate the final price and terms of the sale with a minimum term of \$150,000. In response to a question from Councilor Moore, staff confirmed that the house on the property was inhabitable.
- e. Mayor Dirksen closed the public hearing.
- f. Council Consideration: Resolution No. 04-96

RESOLUTION NO. 04-96 – A RESOLUTION DECLARING REAL PROPERTY LOCATED AT 14040 SW 117<sup>TH</sup> AVENUE AS SURPLUS, SETTING THE MINIMUM ACCEPTABLE TERMS OF ANY FUTURE SALE, AND AUTHORIZING STAFF TO CARRY OUT THE SALE OF SAID PROPERTY

Motion by Councilor Sherwood, seconded by Councilor Woodruff, to approve Resolution No. 04-96.

The motion was adopted by a unanimous vote of Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff:	Yes

6. ADOPT PARKS SYSTEMS DEVELOPMENT CHARGES (SDC) METHODOLOGY AND MASTER FEE RATE RESOLUTION

- a. Mayor Dirksen reopened the public hearing.
- b. Public Works Director Koellermeier reviewed the staff report, which is on file in the City Recorder's office. The Council conducted a public hearing on November 23, 2004, after which the Council directed staff to prepare a resolution adopting new methodology and rates and an amendment from staff addressing a concern from the Home Builder's Association.

Consultant Don Ganer reviewed a PowerPoint presentation, which is on file in the City Recorder's office.

- c. Public Testimony
  - o E-mail communications between Mr. John Frewing and Public Works Director Koellermeier were distributed to the Council. These communications are on file in the City Recorder's office.
  - o Bruce Dalrymple, Tualatin Hills Park and Recreation District (THPRD) Board President, 15707 SW Walker Road, Beaverton, OR 97006 testified about his concerns with rates and asked the Council carefully consider the use of balance in making rate-setting decisions since such costs are passed on to consumers in a slow economy that has not yet fully recovered. He said that jurisdictions may be forced to deal with the legislature if cities and counties continue to adopt increased rates. Mr. Dalrymple, in a brief discussion with Councilor Wilson explained the

action of the THPRD Board wherein the Board approved a rate that was only 65 percent of what was justifiable.

- o Mr. John Frewing, 7110 SW Lola Lane, Tigard, OR 97223, said he was not asking for a delay of the action setting new SDC rates; rather, he was requesting the City begin a 2005 SDC review. He noted the high cost of land and the need to collect higher fees so that land for parks can be purchased. He contended that the land prices assumed in the study for this current rate consideration were too low and some of the study's conclusions were not consistent with the Park Master Plan.

There was discussion between Mr. Frewing and Council members regarding Mr. Frewing's issues and his questions concerning the validity of the data and the resulting recommendations presented in the Ganer study. Mayor Dirksen said these fees will need updating and will be reviewed in the future.

- o Kelly Ross, representing the Home Builders Association said he would like to reiterate a recommendation made previously by Mr. Ernie Platt and urged that the Council consider phasing in this increase. Mr. Ross advised that projects, which were started a number of months ago, had not included calculations for these increased fees and this adversely impacts homebuilding businesses.

Councilor Wilson and Mr. Ross discussed whether some of these costs are eventually passed along to buyers. Mr. Ross noted that most houses built in the Tigard area are not speculative and the ability to pass along increases is a somewhat constrained.

d. Response to Public Testimony

Mr. Ganer acknowledged he was aware of the action for adopting fees (65 percent of the justifiable amount) by THPRD and the Tigard Council would have the ability to do a similar action and could choose to adopt a rate between 0-100 percent of the justifiable amount.

He referred to Mr. Frewing's testimony with regard to estimates for land costs and explained the numbers were derived from an average of prices this last year. He also responded to Mr. Frewing's questions about consistency with the Parks Master Plan, noting his study (Ganer & Associates) did not address all of the projects included in the plan; the projects listed were only those that could be done within a five-year timeframe. Mr. Ganer commented on growth and park land deficiencies, the fact that larger parcels of land are not available, and the basis for the recommended fees. He said that THPRD used a formula based on number of employees and this was successfully challenged and overturned in court.

The fee proposed for Tigard is based on development activity and is supported by the Tigard legal counsel.

e. Mayor Dirksen closed the public hearing.

f. Council Discussion

Councilor Wilson commented about the total of the SDC fees on average versus the increases of the prices of homes.

Councilor Moore said the value of land is increasing more than the increases in fees. He said he would support a later review to determine whether a further fee increase is warranted.

Councilor Sherwood advises she supports the proposed fee increase noting that new development puts pressure on parks.

Councilor Woodruff advised he also supports the increase noting there is a need to do some catch up with the fees.

Councilor Wilson advised he is sensitive to increased housing costs, which are attributable primarily to increased land costs. He said he would support the proposed fee increase although he would rather it not be so drastic.

Mayor Dirksen stated that fees need to be reviewed on a regular basis and said he believed the proposed increase was justified.

g. Council Consideration: Resolution No. 04-97

RESOLUTION NO. 04-97 - A RESOLUTION UPDATING THE PARKS AND RECREATION SYSTEM DEVELOPMENT CHARGE (SDC) METHODOLOGY AND AMENDING RESOLUTION NO. 04-37 BY AMENDING EXHIBIT A THERETO AND INCREASING PARK SDC RATES

Motion by Councilor Sherwood, seconded by Councilor Woodruff, to adopt Resolution No. 04-97.

The motion was approved by a unanimous vote of the City Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff:	Yes

7. PUBLIC HEARING – ORDINANCE TO IMPLEMENT MEASURE 37, PROVIDING A PROCESS FOR CONSIDERATION OF WRITTEN DEMANDS FOR COMPENSATION UNDER 2004 BALLOT MEASURE 37, AND AMENDING ORDINANCE 04-12.

- a. Mayor Dirksen opened the public hearing.
- b. Community Development Director Jim Hendryx presented the staff report, which is on file in the City Recorder's office. His review included a slide presentation, which is on file in the City Recorder's office. City Attorney Ramis also explained the two options before the Council (see also the Study Session review of this agenda item).

Mr. Ramis further explained proposed Ordinance, Option 2, which includes a provision for actions by neighboring property owners. Option 2 outlines that if the Council's approval of a claim waiving the enforcement of a regulation causes a reduction in value of other property located in the vicinity of the claimant, these property owners would have the right to maintain an action in State Circuit Court to recover from the claimant the amount of the reduction. The nearby property owners, if successful, would also be entitled to an award of reasonable attorney fees. Mr. Ramis confirmed for Councilor Woodruff that Measure 37 is silent with regard to the preceding proposed provision.

Mr. Hendryx said he has talked to about ten people to date about the process for filing a claim as a result of Measure 37. At this time, it is unclear whether they will pursue claims. All land use ordinances (about 1,000) since Tigard's incorporation have been identified and a data base is being created so members of the public can research Measure 37 issues.

- c. Public Testimony: None
- d. Council Discussion:

Councilor Moore said he thought the proposed Option 2 Ordinance is "going in the right direction..." and he advised he would support this option.

Councilor Wilson advised he preferred Option 1 because he does not want to encourage more litigation. He said Option 2 might appear as if the City is trying to circumvent the will of the voters. He said he would like to carry out the intent of the law while maintaining a semblance of stability.

Councilor Sherwood noted that this ordinance would likely need to be revised over time. She noted she supported the Option 2 Ordinance.

Councilor Woodruff advised the initial guidelines should be as simple as possible and he favored Option 1. As the City gains experience with implementing Measure 37, changes can be made to the procedures.

Mayor Dirksen agreed that the process should be set forth in as "pure a way as possible." He outlined his concerns about a potential domino-effect for claims. He noted that Option 2 clarifies existing law and draws attention to potential consequences of Measure 37 to be considered by a claimant and how the claim would impact a neighborhood. Mayor Dirksen said he thought he could support Option 2.

- e. Close Public Hearing
- f. Council Consideration: Ordinance 04-13

Motion by Councilor Moore, seconded by Councilor Sherwood, to adopt Ordinance No. 04-13, Attachment 2 (b)

ORDINANCE NO. 04-13 (Attachment 2 [b]) – AN ORDINANCE AMENDING ORDINANCE NO. 04-12 PROVIDING A PROCESS FOR CONSIDERATION OF CLAIMS FOR COMPENSATION UNDER 2004 BALLOT MEASURE 37, ADDING A NEW CHAPTER 1.20 TO THE TIGARD MUNICIPAL CODE, AND DECLARING AN EMERGENCY

The motion was approved by a majority vote of the City Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	No
Councilor Woodruff:	No

Councilor Woodruff asked that it be clarified that the "No" vote cast was related to the issues noted during the discussion on the choice between Option 1 or Option 2.

8. PUBLIC HEARING (Quasi-Judicial) - ARBOR SUMMIT AND ADJACENT PROPERTIES ANNEXATION – ZCA 2004-0001

The following description was read by City Attorney Ramis:

**REQUEST:** The applicant is requesting annexation of two (2) parcels containing 8.9 acres into the City of Tigard, better known as Arbor Summit Subdivision I and II. An additional 9.29 acres has been included by means of consent (Bella Vista Subdivision). The City is also including a 17.91 acre piece of the contiguous Summit Ridge Subdivision by using double majority, as allowed by

Oregon Revised Statute 222.170.2, Effect of consent to annexation by territory. Therefore, this annexation is for eight (8) parcels totaling 36.1 acres.

**LOCATION:** Eight contiguous properties located between SW Bull Mountain Road and SW Beef Bend Road, east of SW 133<sup>rd</sup> Avenue and west of Turnagain Heights; also known as Arbor Summit I and II, Bella Vista, and a portion of Summit Ridge Subdivisions. 12780 and 12950 SW Bull Mountain Road; 12525, 12635, 12655 and 12825 SW Beef Bend Road; and 2 unaddressed parcels. Washington County Tax Assessor's Map Numbers 2S109AD, Tax Lots 1400 and 1500; 2S109DA, Tax Lot 2200; and 2S109DD, Tax Lots 100, 102, 300, 306 and 7000. **ZONE:** R-7: Medium-Density Residential District. The R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet. Mobile home parks and subdivisions are also permitted outright. Some civic and institutional uses are also permitted conditionally. **APPLICABLE REVIEW CRITERIA:** The approval standards for annexations are set out in Community Development Code Chapters 18.320 and 18.390, Comprehensive Plan Policies 2 and 10; ORS Chapter 222; and Metro Code Chapter 3.09.

- a. Mayor Dirksen opened the public hearing.
- b. Community Development Director Jim Hendryx reviewed the staff report, which is on file in the City Recorder's office. Mr. Hendryx distributed a revised legal description for the Ordinance identified as "Option 1."
- c. City Attorney read a statement regarding legal process. Copies of the legal process were available for review by the public at the entrance to the meeting room.

No conflicts were declared by the members of the City Council nor were there any challenges to any Council member's ability to participate in this decision.

- d. Public Testimony:

Applicant –

- Michael Robinson, attorney for the applicant, 1120 NW Couch Street, Portland, Oregon 97209, requested that the proposed annexation go forward.

Opponents

- Isador Morgavi, 15145 SW 199<sup>th</sup> Avenue, Tigard, OR 97224, read a letter into the record in opposition to the proposals for annexation citing the need to resolve issues before the City considers annexation in the

Bull Mountain area. Mr. Morgavi asked that the record be kept open for 15 days. A copy of Mr. Morgavi's letter is on file in the City Recorder's office.

- Julie Russell, 12662 SW Terraview, Tigard, OR 97224, presented testimony asking the Council to delay consideration of piecemeal annexations. Ms. Russell requested that the record be kept open for 15 days. A copy of Ms. Russell's remarks is on file in the City Recorder's office.
- Ken Henschel, 14530 SW 144<sup>th</sup> Avenue, Tigard, OR 97224, requested that the Council delay consideration of annexations in the area referring to the recent outcome of the election on the Bull Mountain annexation question and his recommendation for a cooling-off period. A copy of Mr. Henschel's remarks is on file in the City Recorder's office.

Councilor Woodruff commented that the majority of Tigard residents voted in favor of the annexation of the Bull Mountain area; he noted the Council's responsibility to follow the will of the people who placed the City Council in their positions. Mr. Henschel responded that such decisions should not be made in a vacuum because these decisions would affect a much larger area than just the City of Tigard. He again requested that the Council step back and not do any annexations for awhile.

Councilor Moore referenced situations where property owners have requested annexation. Mr. Henschel said that he disagreed with Councilor Moore on this question and recommended the Council step back.

- Gretchen Buehner, 13249 SW 136<sup>th</sup> Place, Tigard, Oregon, testified that a "good chunk" of Bull Mountain consists of Tigard residents who voted for annexation. She asked several process questions:
  - Was the timing of the request prior to the City's decision to place the Annexation Plan on the ballot? Staff responded, yes, the request for annexation was made before the decision to place the Annexation Plan on the ballot.
  - Are there any 120-day time limit issues with respect to this application? City Attorney Ramis responded that he did not think this rule applies because it is not a permit.
  - If the City denies annexation, could this lead to a Measure 37 claim? City Attorney Ramis said that property owners would need to look to their own counsel for advice on Measure 37.
- Phil Deckert, 14540 SW 148<sup>th</sup> Place, Tigard, Oregon, testified in opposition to the annexation as he contended whether or not to annex this area had been addressed in the November election. The majority of

voters said no to the annexation. He said any action to annex this area would constitute a vote to overturn the will of the people and questioned the Council's right to do this. Mr. Deckert advised that the staff report is defective on the subject of urban services and lacks necessary detail. In response to a question by Mr. Deckert, Community Development Director Jim Hendryx advised that SDC fees are paid at the time of building permit application.

#### Rebuttal

- Michael Robinson, attorney for the applicant, West Hills Development, said that the approval criteria had been met. He cited Page 4 of the Staff Report outlining that adequate facilities are available as delineated in Community Development Code Section 18.320.020. With regard to the two requests that the record be left open for 15 days, the law provides that the record can be requested to be left open for no more than 7 calendar days. He requested approval of the annexation.
- e. Staff Recommendation – Community Development Director Jim Hendryx advised that the staff recommends the Council adopt the annexation as outlined in the Ordinance, Option 1, to annex the 36.1 acres. Mr. Hendryx noted the process and request is consistent with the criteria of the Comprehensive Plan and Community Development Code. The procedure is consistent with the Intergovernmental Agreements between the City of Tigard and Washington County. "Consents" are on file for Bella Vista and Arbor Summit I and II. The City has the authority to do incremental annexations. There is a statute that limits annexations within a specific time of a general election. Community Development Director Jim Hendryx referred to the testimony about delaying this annexation request until after the annexation plan election, which is required by state statute.

City Attorney Ramis commented on the PGE v. City of Estacada case cited in Mr. Morgavi's testimony (written testimony is on file with the City Recorder). This case dealt with annexations attempted by a very long "cherry-stem" connection using a road. Mr. Ramis said he did not believe this case was applicable to the proposal before the Council. The City has authority to ask for consents or waivers for annexation. Courts have upheld that there is no obligation by taxpayers of a City to extend services to areas outside the City. The City can legitimately condition the extension of services to annexation.

#### f. Council Questions

In response to Councilor Wilson, City Attorney Ramis affirmed Mr. Robinson's statement that the record can only be required to be left open for seven days. An additional seven days could be granted upon request by the applicant. City

Manager Monahan suggested the following timeline: Seven days to receive additional written testimony followed by seven days as a rebuttal period for the applicant with a date certain for continuance of the hearing on December 28, 2004. Mr. Ramis clarified the record could be left open for written submittals only; there is no requirement for additional hearings.

Community Development Director Jim Hendryx confirmed for Councilor Woodruff that there is no one living in the proposed annexation areas at this time.

City Manager Monahan asked Council to let staff know if there were any additional questions or information needed. Otherwise, staff recommends the Council table this hearing to a date certain and he outlined potential hearing dates of December 28, January 11, or January 25.

In response to Councilor Sherwood's request about timing, Mr. Monahan advised there were no impending deadlines; however, he noted delay could mean the loss of some SDC revenue, which in the past has been of concern to residents in the area. Mayor Dirksen noted this proposal to annex is consistent with the City policy to consider taking in property as it comes up for development. The Council, in the past, has not chosen to annex by "cherry stem." The area that is the subject of the public hearing is in the City's park service area and, if the area is not annexed now, there would be a loss of approximately \$150,000 that could be used to further the City's Parks Master Plan.

There was brief discussion on timeline for the hearing. In view of the lateness of the hour, Council decided it would hear Agenda Item Nos. 9 and 12 at this meeting because of timing issues; however, Agenda Item Nos. 10, 11 and 13 would be continued to December 28, 2004.

Motion by Councilor Sherwood, seconded by Councilor Woodruff, to hold the record open to receive written testimony with an additional seven days available to the applicant to rebut the written testimony and the hearing continued to December 28, 2004, 7:30 p.m. at the Tigard City Hall.

The motion was approved by a unanimous vote of the City Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff:	Yes

9. PUBLIC HEARING – ORDINANCE TO CONSIDER CODE AMENDMENT TO ALLOW BULK SALES IN THE INDUSTRIAL PARK (IP) ZONE

- a. Mayor Dirksen opened the public hearing.
- b. Associate Planner Morgan Tracy presented the staff report, which is on file in the City Recorder's office. The staff and Planning Commission recommend that Council amend the City of Tigard Development Code to allow Bulk Sales as a "Restricted Use" in the IP Zones, subject to limitations of size and outdoor activity. Mr. Tracy presented highlights of the staff report in a PowerPoint presentation format, which is on file in the City Recorder's office.
- c. Public Testimony  
Proponents:
  - o Bruce Vincent, 825 NE 20<sup>th</sup>, Portland, Oregon spoke in favor of the Code Amendment noting there are similar businesses nearby and the request is consistent with Metro rules.
  - o Paul Schatz, 6600 SW Bonita Road, Tigard, OR 97223, noted that Tigard is home to his business and without the proposed amendment, they would not be able to expand.
- d. Staff recommended approval of the proposed Code Amendment.
- e. Mayor Dirksen closed the public hearing.
- f. Council consideration:

Motion by Councilor Woodruff, seconded by Councilor Sherwood, to adopt Ordinance No. 04-14.

ORDINANCE NO. 04-14 – AN ORDINANCE AMENDING THE LANGUAGE OF THE TIGARD COMMUNITY DEVELOPMNT CODE CHAPTER 18.520 TO ALLOW BULK SALES WITHIN CERTAIN AREAS OF INDUSTRIAL PARK ZONES, SUBJECT TO LIMITATIONS ON SIZE AND OUTDOOR ACTIVITY (ZOA2004-00001)

The motion was approved by a unanimous vote of the City Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes

Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff:	Yes

10. REVISED CITY/TRIMET MEMORANDUM OF UNDERSTANDING (MOU)

This item was set over for consideration at the Tigard City Council meeting of December 28, 2004.

11. PUBLIC HEARING – RESOLUTION TO ADOPT AMENDED MASTER FEES FOR LONG-RANGE PLANNING

This item was set over for consideration at the Tigard City Council meeting of December 28, 2004.

12. RESOLUTION AUTHORIZING CITY MANAGER TO SIGN OREGON PARK AND RECREATION DEPARTMENT/LAND AND WATER CONSERVATION FUND FANNO CREEK TRAIL GRANT APPLICATION

a. Parks Manager Dan Plaza summarized the staff report, which is on file in the City Recorder's office. If approved, this grant would provide needed funding for the construction of a segment of the Fanno Creek Trail between Hall Boulevard and Wall Street. Grant approval is not guaranteed; however, Mr. Plaza reported the City should have a good chance of award.

b. Council consideration:

Motion by Councilor Wilson, seconded by Councilor Woodruff, to approve Resolution No. 04-98.

RESOLUTION NO. 04-98 – A RESOLUTION AUTHORIZING SUBMITTAL TO THE OREGON PARK AND RECREATION DEPARTMENT OF A FEDERAL LAND AND WATER CONSERVATION FUND GRANT TO PARTIALLY FINANCE THE CONSTRUCTION OF THE 2<sup>ND</sup> SEGMENT OF THE FANNO CREEK TRAIL AT FANNO CREEK PARK

The motion was approved by a unanimous vote of the City Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff:	Yes

13. PUBLIC WORKS DEPARTMENT: MISSION/VALUES EXERCISE RESULTS

This item was set over for consideration at the Tigard City Council meeting of December 28, 2004.

14. COUNCIL LIAISON REPORTS: None

15. NON AGENDA ITEMS: None

16. ADJOURNMENT

Motion by Councilor Woodruff, seconded by Councilor Sherwood, to adjourn the meeting.

The motion was approved by a unanimous vote of the City Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff:	Yes

The meeting adjourned at 10:38 p.m.

\_\_\_\_\_  
Catherine Wheatley, City Recorder

Attest:

\_\_\_\_\_  
Mayor, City of Tigard

Date: \_\_\_\_\_

AGENDA ITEM # \_\_\_\_\_  
FOR AGENDA OF 1-25-05

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Quarter 4 Council Goal Update

PREPARED BY: Joanne Bengtson DEPT HEAD OK \_\_\_\_\_ CITY MGR OK \_\_\_\_\_

ISSUE BEFORE THE COUNCIL

Final progress report on the Council's 2004 goals.

STAFF RECOMMENDATION

Receive and file the attached summary report on the 2004 Goals.

INFORMATION SUMMARY

Attached are brief summaries of the efforts to date on the stated Council goals for this year.

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Visioning goals are identified throughout the goals and tasks developed by the City Council.

FISCAL NOTES

N/A

# Council Goals for 2004

## GOAL 1 – FINANCIAL STRATEGY

A. Develop and implement a sustainable long-term financial strategy for issues such as:

1. General Fund needs
2. Library
3. Transportation
4. Parks and open space
5. Washington Square regional center
6. Central Business District
7. Water system
8. Extension of urban services through annexation

### **Fourth Quarter Update:**

*The fourth quarter of calendar year 2004 Financial Strategy issues worked on during this period include: The fourth quarter of calendar year 2004 Financial Strategy issues worked on during this period include:*

- *Prepared and presented several special analyses related to the possible annexation of Bull Mountain.*
- *Continued participation of the Joint Audit of Qwest and Verizon franchise fees.*
- *Continued an audit of NW Natural franchise fees in cooperation with Salem, Portland, and several other cities. The audit is expected to be concluded in January 2005.*
- *Council adopted updated Parks SDCs.*
- *Developed the preliminary FY 2005-10 Financial Forecast.*
- *Initiated the FY 2005-06 Budget process by training all departments in budget approach and forms.*
- *Conducted a quarterly meeting of the Budget Committee, which among other topics, reviewed potential financial impacts on Tigard from two statewide ballot measures.*
- *Supported arbitration between the City and TPOA by preparing financial analyses of both parties' Last Best Offers, and testifying at the arbitration.*

### **Third Quarter Update:**

The third quarter of calendar year 2004 Financial Strategy issues worked on during this period include:

- Prepared and presented several special analyses related to the possible annexation of Bull Mountain.
- Continued participation of the Joint Audit of Qwest and Verizon franchise fees.
- Continued an audit of NW Natural franchise fees in cooperation with Salem, Portland, and several other cities. The audit is expected to be concluded in October or November.
- Council approved a new franchise with NW Natural that includes an increase in the franchise fee rate from 3% to 5%. NW Natural has adjusted customer billings to reflect the 2% increase.
- The Parks SDC study has produced a draft report. The public review process has begun.
- Began work on the FY 2005-10 Financial Forecast.
- Conducted a quarterly meeting of the Budget Committee, which among other topics, reviewed potential financial impacts on Tigard from two statewide ballot measures.

### **Second Quarter Update:**

The second quarter of calendar year 2004 has been very active for the City in financial matters. Issues worked on during this period include:

- Developed and adopted the FY 2004-05 Budget,

- Finalized the Five Year Financial Forecast based on that budget,
- Updated City fees and charges,
- Reviewed the Privilege Tax with the Budget Committee as a possible new revenue source,
- Prepared several special analyses related to the possible annexation of Bull Mountain,
- Continued participation of the Joint Audit of Qwest and Verizon franchise fees – after two years of negotiations with Verizon, the cities' auditor was finally allowed on site to review Verizon's books, and Verizon has committed to complete this audit before the end of the calendar year,
- Initiated an audit of NW Natural franchise fees in cooperation with Salem and Portland – several other cities are now joining this effort,
- Concluded negotiation of a new franchise with NW Natural that includes an increase in the franchise fee rate from 3% to 5%,
- Initiated a study to update the City's Parks SDC,
- Developed several financial analyses in support of the City's negotiations of the contractual reimbursement from Clean Water Services in exchange for maintaining part of CWS's service area,
- Implemented the City's new Street Maintenance Fee and began collections,
- Called the 1993 Bancroft Bonds early, saving the City \$8,000 in interest costs

#### **First Quarter Update:**

**Goal 1** Departments have been putting together budget requests and the City Manager has been developing his Proposed Budget in response to Council direction to budget conservatively. The Budget will be constructed to push the need to go to voters for a local option levy out as far as possible.

Staff briefed Council in a workshop session on the drivers in the financial forecast to help answer the question why declining General Fund balances are projected. Understanding the drivers will help to develop appropriate responses.

Staff has continued to support the discussion of the Bull Mountain annexation by developing special analyses as needed and responding to citizen inquiries.

#### **GOAL 2 – TIGARD CENTRAL BUSINESS DISTRICT**

- A. Support the activities of the Downtown Task Force as it defines a vision for redevelopment.
- B. Select a consultant to carry out the Transportation Growth Management (TGM) grant to create a redevelopment plan based upon the recommendations of the Task Force and Council.
- C. Choose a financing mechanism, such as tax increment financing, for carrying out the redevelopment plan or vision.
- D. Broaden the Task Force to include citywide representation.

#### **Fourth Quarter Update**

#A

- *The City Council and Task Force met on Nov. 16 to discuss the project.*
- *The Task Force led 24 Community Dialogs in October, with an additional three events for handing out the brochure. These small group discussions (12-15 people) were designed to elicit comments, ideas and recommendations from the community and have them help develop the Tigard Downtown Improvement Plan.*
- *A Community Workshop was held December 4. The workshop was designed to have the community provide direction and ideas for the plan. Based on the Community Dialogs, Parametrix presented a first draft of a Downtown design. The attendees commented on the design in small groups.*
- *Subcommittees were established to help accomplish the Task Force's charge:*
  - *Station Design. A Task Force subcommittee was established in November 2004. The subcommittee will meet with TriMet to influence the Commuter Rail station design and implement the station design recommendations in the Task Force's Station Design*

*Recommendations report from March 2003. Recommendations are expected in February 2005.*

- *A logo subcommittee created a plan logo in December 2004.*

*#B Parametrix was selected. The City signed the IGA with ODOT. The plan process began in August, and will be completed June 30.*

*#C Not yet applicable. Financing mechanisms will be addressed in the Tigard Downtown Improvement Plan; the Task Force hasn't reached that part of the work program (February-March 2005). Other subcommittees will be created in 2005 and will address these topics.*

*#D Completed in June (24 members with a Youth Advisory Council Representative).*

### **Third Quarter Update**

**#A.**

- The Task Force is preparing for extensive community outreach through the Community Dialogs, being held from late September through October. The Task Force is holding small group discussions (12-15 people) to have the community help develop the Tigard Downtown Improvement Plan. It is important that the entire community be involved – this is the community's plan.
- B&B Print Source donated printing and paper for 2500 brochures to publicize the process.
- Task Force has also been meeting with TriMet to influence the Commuter Rail station design and implement the station design recommendations in the Task Force's Station Design Recommendations report from March 2003.

**#B.** Parametrix was selected. The City signed the IGA with ODOT. The plan process began in August, and will be completed June 30.

**#C.** Not yet applicable. Financing mechanisms will be addressed in the Tigard Downtown Improvement Plan; the Task Force hasn't reached that part of the work program.

**#D.** Completed in June (24 members with a Youth Advisory Council Representative).

### **Second Quarter Update**

**Goal 2A:** Council appointed an additional 12 members to the Downtown Task Force. Parametrix was selected in June as the consultant for the Downtown redevelopment program.

**Goal 2B:** The IGA between ODOT and the City needs to be adopted by the Council to proceed with the plan and work program.

**Goal 2C:** Not yet applicable. Financing mechanisms will be addressed in the redevelopment plan.

**Goal 2D:** The Council also passed a resolution on March 9 that expanded the Task Force to reflect Tigard's broad constituency and Downtown stakeholders. The recruitment has been completed and the Task Force consists of 24 members.

### **First Quarter Update**

**Goal 2A** Council passed a resolution on 3/9/04 that acknowledges the efforts of the Task Force and commends its members for completing the work program. The resolution also directs that all current Task Force members be invited to continue serving on an expanded Downtown Task Force.

**Goal 2B** Staff is working with ODOT to finalize the project's scope of work. Once ODOT finalizes its review, an Intergovernmental Agreement (IGA) and Request for Proposals (RFP) seeking consultants will be completed. This groundwork will take place in the next quarter, culminating in a consultant's selection.

**Goal 2C** Not yet applicable. Financing mechanisms will be addressed in the redevelopment plan.

**Goal 2D** The Council also passed a second resolution on March 9 that expanded the Task Force to reflect Tigard's broad constituency and Downtown stakeholders. The recruitment process is now under way.

### **GOAL 3 – TRANSPORTATION**

- A. Aggressively pursue solutions to congestion of state, county and city facilities that cross through Tigard.

1. Reforming the Transportation Financing Task Force.
  - a. Explore outside funding sources
  - b. To recommend to the City Council expansion of the task force functions
2. Identify project priorities and funding needs for state and city facilities.
  - a. Prioritize all project needs – city, county and state facilities in Tigard
  - b. For priority facilities which are controlled by another entity,
    1. Discuss the project with the entity which has jurisdiction over the facility; and
    2. Negotiate a funding solution which could include partial city funding; and
    3. Offer to improve a related city transportation problem in exchange for the other entity completing a needed transportation facility; and
    4. Offer to accept jurisdiction for the improved facility upon project completion.
- B. Continue working with Tri-Met to carry out the Memorandum of Understanding and identify and fund additional improvements with an emphasis on intra-city bus routes.
- C. Council shall meet with ODOT representatives at least once in 2004 to discuss state road facilities in Tigard and the related funding needs and priorities.

#### **Fourth Quarter Update**

##### (From Engineering)

Although the City submitted four projects for Federal funding through the 2006-09 MTIP (Metropolitan Transportation Improvement Program), only two made the 150% list. One project that is still under consideration is the widening of Greenburg Road between Shady Lane and Tiedeman Avenue. MTIP funding has been authorized for design and rights-of-way acquisition for this project. Construction of the improvements to widen Greenburg Road from 3 to 5 lanes would address the current and future traffic volumes on that street. Another project still on the list is construction of a new street along the Ash Street corridor to provide secondary access to the planned commuter rail park-and-ride lot. This new street is intended to eventually become part of the Walnut Street Extension, which would extend Walnut Street east of Highway 99W then north along Ash Street to connect to Hunziker Street. The public comment period on the 150% list ended on December 6, 2004. JPACT (Metro's Joint Policy Advisory Committee on Transportation) will narrow the list to match the funding available in mid-January 2005. The Metro Council will conduct a public hearing on February 17, 2005. JPACT and Metro Council are scheduled to act on the final program (pending air quality conformity analysis) on March 10, 2005 and March 24, 2005 respectively. The 2006-09 MTIP with the approved final project list is expected to be adopted in August 2005.

The City submitted three projects for consideration under the County's MSTIP (Major Streets Transportation Improvement Program) Transportation Capital Program covering the period 2007 through 2012. The project selection and implementation processes are still being discussed at this point. Although the anticipated funding for Tigard is expected to be approximately \$5 million, the inflation rate (which is almost double the expected interest rate on the funds) and the fact that the projects will not begin until 2007 complicate the project selection process. Not every project will be initiated in the first year, and those in the out years will face the challenge of higher construction costs and potential downscaling of project scope. Also under discussion is whether or not various jurisdictions could initiate part or all of the work necessary to prepare the projects for construction and submit those projects for completion under the MSTIP program. Further discussions will be underway during the next few months to resolve those issues.

**Goal 3A1** The Transportation Financing Strategies Task Force reconstituted by Resolution No. 04-52 at the Council meeting on July 13, 2004 has met three times since then. At the Council meeting on October 26, 2004, Council passed Resolution No. 04-85 expanding the mission of the Task Force to include evaluation of funding sources for sidewalk improvements and rights-of-way

*maintenance on collectors and arterials. This same resolution added two members to the Task Force with Ralph Hughes representing the Tigard Chamber of Commerce and Marty Anderson representing the Planning Commission. Gretchen Buehner was selected as Task Force Chair and Ralph Hughes as Vice-chair. The Task Force will be meeting with City Council at the February 15, 2005 workshop meeting to discuss funding options, citizen involvement process for project selection, potential projects, and to receive direction from Council on priorities for emphasis in the evaluation of funding sources. The Task Force will continue its mission in 2005 to evaluate new funding sources for recommendation to City Council.*

**Goal 3B**      *The City staff continues to work with TriMet on the commuter rail project. In addition, the Downtown Improvement Plan Study is well underway with a citizen workshop conducted on December 4, 2004 to receive comments on the preliminary concepts developed. The Downtown Improvement Plan Study is expected to be completed by the end of FY 2004-05. The \$75,000 included in the Capital Improvement Program for FY 2004-05 may be used to construct transportation-related improvements to enhance the commuter rail project and to construct other improvements that may be recommended by the Downtown Improvement Plan.*

**Goal 3C**      *Matthew Garrett, Region 1 Manager for ODOT (Oregon Department of Transportation), addressed Council at the November 9, 2004 meeting. The City staff continues to work with ODOT staff to resolve such issues as the signalization of the Hall Boulevard/New Library entrance intersection, temporary crosswalk while the signal system design and bid are in progress, and coordination on a regular basis to ensure sharing of information on upcoming projects. Mr. Garrett was able to report excellent progress on resolving those issues. The signal system installation has been approved, the temporary crosswalk has been approved pending installation of the signal system, and monthly meetings have resumed between ODOT and City staff. Mr. Garrett pledged to meet with Council on a semi-annual basis to continue the dialog and maintain the close contact between ODOT and the City.*

*(4<sup>th</sup> Quarter Update from Community Development)*

**#B** *TriMet completed a comprehensive evaluation and mapping of sidewalk gaps in the vicinity of bus stops. City and TriMet staff currently worked together to prioritize needed sidewalk improvements throughout the City. Adding sidewalks will help to provide a safer, more secure walking environment than the street. With TriMet support, the City applied for four CDBG and one ODOT Bike/Ped grants to finance six sidewalk projects. ODOT included \$654,000 in 2006 Bicycle/Pedestrian funding in its draft Statewide Transportation Improvement Plan for the infilling of sidewalk gaps on both sides of HWY 99 from the City's eastern limits to Canterbury Lane.*

**Third Quarter Update  
(From Community Development)**

**#B.** *The City applied for a number of transit-oriented sidewalk in-fill grants during the period. The streets involved include 69<sup>th</sup>, 71<sup>st</sup>, Hall, Center, Garrett, and Frewing. The proposed projects will improve access to bus stops and help create a safer and more transit-friendly community. The City and TriMet completed a fourth outreach or listening post meeting regarding service and facility improvement needs. Approximately fifteen Chamber of Commerce business committee members participated in the meeting. Based on the comments received during the four outreach meetings conducted so far, TriMet is considering rerouting line 38 to provide seven hours of service along the presently unserved Bonita Road. It also is studying the feasibility of rerouting lines 62 or 92 to serve Barrows Road. Additional follow-up includes contacting two churches along HWY 99W regarding the use of their parking lots for*

bus rider parking. TriMet and the City together are looking at bus shelter needs within the City. At present, four bus stops in Tigard that meet the shelter installation boardings per day thresholds (35 per day) are without bus shelters.

### **Third Quarter Update (From Engineering)**

**Goal 3A -** The City applied for Federal funding through the MTIP (Metropolitan Transportation Improvement Program) process for four projects within the Tigard area. One project is for the construction of Greenburg Road improvements between Shady Lane and Tiedeman Avenue. MTIP funding has been authorized for design and rights-of-way acquisition for the Greenburg Road project. Construction of the improvements to widen Greenburg Road to 5 lanes would address the current and future traffic volumes on that street. Another project is for construction of a new street along the Ash Street corridor to provide secondary access to the planned commuter rail park-and-ride lot. This new street is intended to eventually become part of the Walnut Street Extension, which would extend Walnut Street east of Highway 99W then north along Ash Street to connect to Hunziker Street.

**Goal 3A1** The Transportation Financing Strategies Task Force was reconstituted by Resolution No. 04-52 at the Council meeting on July 13, 2004. At that same meeting, Resolution No. 04-51 was approved commending the original Task Force members and completing the Task Force mission for the original task force. The reconstituted Task Force will explore potential funding sources for major street improvements.

**Goal 3B** The City staff continues to work with TriMet on the commuter rail project. In addition, the Downtown Improvement Plan is in the initial stages. The \$75,000 included in the Capital Improvement Program for FY 2004-05 may be used to construct transportation-related improvements that may enhance the commuter rail project and possibly other improvements that may be recommended by the Downtown Improvement Plan.

### **Second Quarter Update (from Community Development)**

**Goal 3B:** A joint City-TriMet roundtable was held with social service and housing providers in April. The participating agencies included Community Partners for Affordable Housing, the Good Neighbor Shelter, the Senior Center and eight other Tigard-based organizations. The meeting focused on how the respective agencies' clients use transit and on transit access and coverage improvement needs. In May, TriMet made a presentation to the Downtown Task Force. In June, TriMet presented the program to the Planning Commission.

### **Second Quarter Update (from Engineering)**

**Goal 3A1** The reconstitution of the Transportation Financing Strategies Task Force is scheduled for the Council meeting on July 13, 2004. At that same meeting, a resolution commending the original Task Force members is scheduled for Council consideration and action. The Oregon Grocery Association will be represented in the reconstituted Task Force. Invitations were issued to the Tigard Chamber of Commerce and Washington Square management to provide representation on the Task Force. There has been no response from the Chamber and Jack Reardon of Washington Square said he could not serve, but would ask for a representative from the Westside Economic Alliance. If representatives from those groups are submitted, they could be added by amending the resolution to add those members. Once the Task Force is reconstituted, the initial meeting can be set, possibly in late July or early August 2004.

**Goal 3A2a** A list of high priority projects regardless of jurisdiction was developed and presented for Council review and discussion at the workshop meeting on February 17, 2004. This list included high priority intersection projects along Highway 99W to move east-west traffic more effectively. A project to widen McDonald Street at the Highway 99W intersection to provide a dedicated right-turn lane and to extend the stacking on the left-turn lane from McDonald Street to Highway 99W is included in the Capital Improvement Program for FY 2004-05. This project should improve east-west traffic movement while allowing motorists to access Highway 99W more readily.

**Goal 3B** The amount of \$75,000 was included in the Capital Improvement Program for FY 2004-05 to allow for joint projects to be undertaken by the City and TriMet to provide pedestrian connections between transit amenities such as bus stops and key activity centers. Some of these funds could be used for improvements in downtown Tigard in conjunction with TriMet's Commuter Rail Project. The

funding could also be used to extend existing sidewalks at key locations in the City to provide a safe path to school for children.

**Goal 3C** A new representative to the Oregon Transportation Commission from this area will be appointed this summer. This new representative will be requested to meet with Council at a workshop meeting in the fall to discuss Tigard's transportation project needs.

#### **First Quarter Update**

(Update from Engineering Department)

**Goal 3A1** The Transportation Financing Strategies Task Force is in the process of being reconstituted to evaluate potential sources of revenue for street improvement projects. Because participation from the business community has been lacking on this Task Force, the Tigard Chamber of Commerce and Jack Reardon of Washington Square have been requested to provide representatives to serve on the Task Force. Jack Reardon indicated that he was already fully booked, but would request the Westside Economic Alliance to provide someone from the business community. The Chamber has not yet responded. The Task Force membership should be finalized in early May.

**Goal 3A2a** A list of high priority projects regardless of jurisdiction was developed and presented for Council review and discussion at the workshop meeting on February 17, 2004. This list included high priority intersection projects along Highway 99W to move east-west traffic more effectively.

**Goal 3B** The Engineering Department continued working with TriMet to carry out the provisions of the Memorandum of Understanding. An amount of \$75,000 was included in the Capital Improvement Program for FY 2004-05 to allow for joint projects to be undertaken by the City and TriMet to provide pedestrian connections between transit amenities such as bus stops and key activity centers. The funding could also be used to extend existing sidewalks at key locations in the City to provide a safe path to school for children.

**Goal 3C** Matt Garrett, the Region 1 Manager from Oregon Department of Transportation (ODOT), met with City Council at its workshop meeting on March 16, 2004. This is the first step in establishing a dialogue with ODOT that could eventually lead to implementation of high priority projects. ODOT had been provided earlier with the list of high priority projects, most of which involved Highway 99W intersections with City streets. Mr. Garrett emphasized that strong support from the business community is important when it comes time to select projects for implementation. This message was passed on to the Tigard Chamber of Commerce by both Council and the City Manager.

(Update from Community Development Department)

**Goal 3B** A joint City-TriMet roundtable meeting with local social service and housing providers is set for April 7<sup>th</sup>. The participating agencies include Community Partners for Affordable Housing, the Good Neighbor Shelter, the Senior Center and eight other Tigard-based organizations. The meeting will focus on how the respective agencies' clients use transit and on transit access and coverage improvement needs. Similar outreach meetings with the Downtown Task Force and Planning Commission are set for May and June, respectively.

#### **GOAL 4 – PARKS AND RECREATION**

A. Meet with the Park and Recreation Advisory Committee to:

1. Discuss the vision of the Task Force and the Council related to the City need for parks and recreation.
2. Discuss possible acquisition needs and financing for the City of Tigard as well as unincorporated Bull Mountain.
3. Discuss options and interest in creating a park and recreation district.

B. Continue to participate in discussions with the Tigard-Tualatin School District and neighboring cities to consider the school district's funding needs.

C. Meet with the Skate Park Committee and formulate a plan of action.

D. Continue to support the efforts of the Youth Forum.

#### **Fourth Quarter Update**

##### **(Update from Public Works Department)**

The Council directed the PRAB to use the Executive Summary Report to begin a process which will lead to a recommendation to City Council on what actions should be considered on behalf of parks and recreation services in the City of Tigard. The PRAB was also asked to develop and hold several community meetings to gather additional public input and gauge public support for the final recommendation. The PRAB is currently working on three, 10-minute presentations to present throughout the community. The three presentations will focus on community support for: 1) creating a City of Tigard Recreation Division; 2) develop a bond measure for the acquisition of park land both passive and active; and 3) develop a bond measure for the construction of a Community Recreation Center.

**Goal 4A2** The Bull Mountain Park and Open Space Task Force created a Bull Mountain Parks Concept Plan which sets forth land acquisition and park development projects for the Bull Mountain area. It was presented to Council on June 22. Council accepted the "white paper".

**Goal 4A3** The survey revealed that the residents of Tigard opposed (53%) the creation of a separate taxing district to provide park and recreation services. The survey also concluded that well over half (57%) favored the creation of a Recreation Division operated by the City.

**Goal 4B** There is nothing to report on this at this time.

**Goal 4C** At their November 16 meeting, City Council, approved the following funding scenario for the construction of a skate park in Tigard.

City Park System Development Charges	\$150,000
State of Oregon Local Grant	\$150,000
<u>Skate Park Task Force Donations</u>	<u>\$105,000</u>
Total Construction Cost	\$405,000

#### **4<sup>th</sup> Quarter Update from City Administration:**

**Goal 4D:** During the last quarter of 2004, the draft bylaws for Tigard Turns the tide were completed. The bylaws are scheduled to be finalized at the January 17, 2005 Youth Forum meeting and then will be submitted to the existing Tigard Turns the Tide Board for adoption. Tigard Turns the Tide is an existing 501c3 organization whose membership and mission will be expanded to serve as a community coalition to support youth program and activities.

Alexander Carsh is now serving as the Youth Advisory Council representative to the Youth Forum.

The Police Activities League hosted an open gym winter break program at Fowler.

#### **Third Quarter Update**

##### **(Update from Public Works Department)Goal 4A1**

A community parks and recreation assessment survey was conducted in August, and the Executive Summary Report was presented to Council and the Park and Recreation Advisory Board (PRAB) on September 21, 2004. Three hundred and eight-three (383) people were surveyed. The Council directed the PRAB to use the Executive Summary Report to begin a process which will lead to a recommendation to City Council on what actions should be considered on

behalf of parks and recreation services in the city of Tigard. The PRAB was also asked to develop and hold several community meetings to gather additional public input and gauge public support of the final recommendation.

**Goal 4A2** The Bull Mountain Park and Open Space Task Force created a Bull Mountain Parks Concept Plan which sets forth land acquisition and park development projects for the Bull Mountain area. It was presented to Council on June 22. Council accepted the "white paper". If the results of the annexation favor annexation then an update of the Park System Master Plan will be initiated and the results will be encompassed in the proposed updated SDC Methodology scheduled for Council consideration and approval in Nov/Dec 2004, and effective January 1, 2005.

**Goal 4A3** The survey revealed that the residents of Tigard opposed (53%) the creation of a separate taxing district to provide park and recreation services. The survey also concluded that well over half (57%) favored the creation of a Recreation Division operated by the City.

**Goal 4B** There is nothing to report on this at this time.

**Goal 4C** The Task Force continues meeting and pursuing their fundraising efforts. The Balloon Festival donated approximately \$1,600 to the Skate Park Task Force. Skating demonstrations are tentatively scheduled for September 18 at the Tigard Blast. A portion of the city parking lot has been roped off to help determine what the impact on parking would be if a 15,000 square foot skate park was built City Hall. This test will be conducted again in December when the City Hall remodeling is completed. City staff has met with skate park members and a skate park building contractor to discuss the current design and the ability to "tweak" the design if necessary. A general skate park update is presently scheduled for the Council workshop on December 21, 2004.

#### **Third Quarter Update (from City Administration)**

**Goal 4D** The Youth Forum made progress during the past quarter to formalize the organization of a community coalition to support youth programs and activities. The bylaws of the 501(c)3 organization are being reviewed with the intent to reprice that inactive organization to serve the coordination role for the community's effort to support youth.

#### **Second Quarter Update**

(Update from Public Works Department)

**Goal 4A1** A community parks and recreation assessment survey has been recommended to Council for consideration on July 20. If Council approves the survey interviews will begin in either late July or August. The executive summary, setting forth the findings has been scheduled for September 21.

**Goal 4A2** The Bull Mountain Park and Open Space Task Force created a Bull Mountain Parks Concept Plan which sets forth land acquisition and park development projects for the Bull Mountain area. It was presented to Council on June 22. Council accepted the "white paper".

**Goal 4A3** This question will be addressed in the upcoming community parks and recreation assessment survey and reported in a future goal report.

**Goal 4B** There is nothing to report on this at this time.

**Goal 4C** The Task Force continues meeting and pursuing their fundraising efforts. The Task Force had a booth at the Balloon Festival. They also conducted skateboarding demonstrations at the Festival. The wood floor they skated on was donated by Dave Nicoli. Dave intends to make a sizeable donation to the skate park if festival revenues permit it.

#### **Goal 4D**

(Update from Administration)

During the second quarter, the Youth Forum members focused on supporting building a Community Coalition of Youth Service Providers in the community to formalize a partnership that will qualify for grant funds to support youth programs and activities.

#### **First Quarter Update**

(Update from Public Works Department)

**Goal 4A1** The first joint meeting between the City Council and the Park and Recreation Advisory Board was held on March 9, 2004.

On April 22, 2003, the Tigard City Council re-established the Tigard Park and Recreation Advisory Board. Within three months, seven Tigard residents were appointed by the Council to serve on the

Board. They are Shelley Richards, Jason Ashley, David Baumgarten, Scott Bernhard, Michael Freudenthal, Darrin Marks and Carl Switzer. Two Ex-Officio members have been appointed, Barry Albertson, to represent the Tigard-Tualatin School District, and Eileen Webb, to represent the Tigard Planning Commission. Since being formed, the Advisory Board has toured many of Tigard's parks and facilities. They have heard presentations about the City's park budget, Parks Capital Improvement Plan, and the general City of Tigard visioning process as it applies to Parks and Recreation. Additionally, they have reviewed Master Plans for Cook Park, Bonita Park, Summerlake Park, Skate Park, and Fanno Creek Park. They have also been briefed on the efforts of Rich Carlson's effort, along with many others, toward creating a Tigard Skate Park for our city's youth. The Board has adopted goals and a mission statement which reads "*The Purpose of the Park and Recreation Advisory Board is to advocate for park and recreation opportunities for a growing Tigard.*" They have also created an e-mail address, [parkrecboard@ci.tigard.or.us](mailto:parkrecboard@ci.tigard.or.us), and the Board now has a webpage on the City's website.

Issues discussed at the first joint meeting were:

- a) what has the Board learned,
- b) Board goals,
- c) Board interest in conducting a community assessment survey aimed at community interest in parks and recreation programs – this project is well on its way, Council was updated on 4/12),
- d) Council Goal #4,
- e) vision of the Board and Council related to the city's need for recreation (COT Recreation Div/Dep't)-survey related,
- f) possible park land acquisition needs and financing for the City of Tigard as well as unincorporated Bull Mountain – significant work has been done on this with the Bull Mountain Parks and Open Space Task Force-a "White Paper" will be submitted soon,
- g) skate park-survey related, and
- h) options and interest in creating a park and recreation district-survey related.

**Goal 4A2** The Bull Mountain Park and Open Space Task Force has created a Bull Mountain Parks Concept Plan which sets for land acquisition and park development projects for the Bull Mountain area. Although the plan has not been finalized, it has identified projects totaling between \$8M – \$10M. This plan will be an integral part of the "White Paper". The current Parks System Master Plan will be updated once the Bull Mountain Parks Concept Plan is approved by the Task Force, Park and Recreation Advisory Board and the City Council. Basically, the Bull Mountain plan will become a part of the City's Parks System Master Plan.

**Goal 4A3** This question will be addressed in the upcoming community parks and recreation assessment survey.

**Goal 4B** There is nothing to report on this at this time.

**Goal 4C** On February 10, the Council met with the Skate Park Task Force in a joint meeting. The results of that meeting led to the Task Force, along with city staff and elected officials, meeting again on February 25 at a general meeting aimed at creating a fund raising structure. Several funding sources were identified, such as: various youth and adult fund raising activities, public and private grants, in-kind donations of materials and labor, etc. The Task Force leadership formed the following four new fund raising committees to begin fund raising efforts to raise the needed money. These committees are now meeting, some more than others, to organize the fund raising campaign. The committees are:

- Communication Committee
- Youth Fund Raising Activities Committee
- Adult Fund Raising Activities Committee
- "Grants" Fund Raising Committee

**Goal 4D** During the first quarter, the Youth Forum focused on supporting the Police Activity League's (PAL) efforts to build a Tigard chapter and provide extended after school programs at Fowler and Twality Middle Schools.

#### **GOAL 5 – GROWTH MANAGEMENT**

- A. Continue Bull Mountain annexation information preparation leading to a July 2004 Council action on the Annexation Plan.
- B. Form subcommittees and review their completed White Papers.
- C. Designate a subcommittee which will review the Planned Development section of the Community Development Code, led by the Planning Commission.
- D. Develop a framework/timetable for a Comprehensive Plan update.
- E. Negotiate with Washington County staff to determine who will prepare the plan and zoning for the UGB Areas 63 and 64, and identify the source of funding for the plan.

#### **Fourth Quarter Update:**

- #A. *Vote held in November. Annexation was not approved.*
- #B. *Completed in Quarter 3.*
- #C. *Planned Development Sub-Committee continues to meet and is working on proposed Code text.*
- #D. *Staff conducted a presentation to Council identifying a tentative timeframe for completion. Staff is working on the public involvement program element and anticipated further discussion at a joint CC/PC meeting in February. Coordination with the County regarding inclusion of the Bull Mountain and UGB expansion areas is included in the 2005 work program.*
- #E. *See #D above*

#### **Third Quarter Update:**

- #A. City Council conducted public hearings on the Bull Mountain Annexation Plan in July and August. Council accepted the Annexation Plan as an advisory document to guide annexation. In August, Council moved to place the issue of annexing Unincorporated Bull Mountain separately before the voters of the City and territory under consideration for annexation. A majority of voters in both the City and the unincorporated territory will need to support the measure in order for annexation to occur.
- #B. Bull Mountain subcommittees developed White Papers for Parks, Streets, Planning, and Police. The subcommittees presented their findings, conclusions, and recommendations to Council in June. Council accepted the White Papers. The White Papers will be used in determining the delivery of services for Bull Mountain, should annexation occur.
- #C. Council appointed a Planned Development Committee to evaluate planned development provisions of the Community Development Code. The committee continues to meet and is developing a series of recommendations to improve Tigard's planned development process.
- #D. The Planning Commission continues to meet on developing an approach to updating the Comprehensive Plan. Their recommendations will be presented to Council before the end of the year.
- #E. As directed by Council, staff is awaiting the outcome of the Bull Mountain Annexation vote before proceeding further with this effort.

#### **Second Quarter Update**

- Goal B: Bull Mountain subcommittees were appointed and developed White Papers for Parks, Streets, Planning, and Police.
- Goal C: Planned Development committee members have been interviewed by Council and appointed. Their first meeting was April 14, 2004. The committee is continuing to work on PD programs.
- Goal D: The Planning Commission continues to work on a Comprehensive Plan update program. The objective is to finalize the Planning Commission recommendations by September for Council review and action in the fall.

Goal E: Staff is collecting preliminary information related to the scope of concept plans for the UGB expansion areas.

**First Quarter Update**

**Goal 5B** Bull Mountain subcommittees were appointed and are meeting to develop a program/scope for four areas of analysis: Parks, Streets, Planning, and Police.

**Goal 5C** Planned Development committee members have been interviewed by Council and appointed. Their first meeting is scheduled for April 14<sup>th</sup>.

**Goal 5D** The Planning Commission continues to work on a Comprehensive Plan update program. The objective is to finalize the Planning Commission recommendations by June for Council review and action in summer.

**Goal 5E** Staff is collecting preliminary information related to the scope of concept plans for the UGB expansion areas.

**GOAL 6 – COMMUNICATION**

- A. Increase Tigard's communication with other local officials and elected bodies through active participation of City Council members and staff.
- B. Improve and expand communication with citizens, particularly communicating successes and future concerns.
- C. Support the Tigard Beyond Tomorrow goal to maximize citizen involvement opportunities through educational programs by implementing a citizen leadership series.
- D. Investigate the possibility of supporting the mission of the Tigard Youth Advisory Council "to empower, improve and connect the lives of Tigard's youth" by adding a youth representative to all City boards and committees.
- E. Investigate the possibility of supporting the Tigard Beyond Tomorrow strategy to "encourage public participation through accessibility and education with an annual citizens' fair for community events and businesses."

**Fourth Quarter Update:**

*6A: During the fourth quarter, the City Council met with the Senior Center Board, ODOT, The Tigard-Tualatin School District and the City of Tualatin, State Senator Ginny Burdick, State Representative Larry Galizio, and the Washington County Board of Commissioners. Council and staff members also continued to participate with regional partners at the CDBG Advisory Board, WCCLS, CLAB, IWB, MPAC, Regional Water Consortium, Senior Center Board, Tigard Chamber of Commerce, Tualatin Basin Natural Resource Coordinating Committee and the Westside Economic Alliance.*

*6B: During the fourth quarter, Focus on Tigard topics included the Candidates Forum, the CIP program and communication.*

*6C: No progress was made on this goal.*

*6D: The Youth Advisory Council developed a work plan of programs and activities for 2005. Three subcommittees were established to carry out the goals – Education, Communication and Service. The subcommittees begin meeting in January.*

*6E: No activity on this goal during the fourth quarter.*

**Third Quarter Update:**

**Goal 6A** During the third quarter, City Council and/or staff continued to participate with regional partners at the CDBG Advisory Board, WCCLS, CLAB, the IWB, MPAC, the Regional Water Consortium, the Senior Center Board, the Tigard Chamber of Commerce, the Tualatin Basin Natural Resource

Coordinating Committee and the Westside Economic Alliance. The Council also met with members of the Park and Recreation Advisory Board, the Planned Development and Budget Committees, and the New Library Resource Team. The New Library Resource Team was acknowledged by the Council for their achievements in assisting with the construction and opening of the new library and the committee was disbanded.

**Goal 6B Focus on Tigard** – Over the last 3 months, Focus topics included the Bull Mountain Annexation Plan, Water Conservation & Supply and Traffic Safety.

**Committee for Citizen Involvement (CCI)** – Meetings were held in July and September. In July, the CCI discussed enhancing the City's community involvement program and the Goal 5 Outreach program. In September, the Development Proposal Neighborhood meeting process, ideas for enhancing the community involvement program, and the membership of the CCI were discussed.

**Goal 6C** No progress was made in this area during the third quarter.

**Goal 6D** Youth Advisory Council representatives are now serving on the Downtown Task Force and the Park and Recreation Board.

**Goal 6E** City staff participated in the Tigard Blast. The Public Works department and the Youth Advisory Council and Skate Park Task Force participated in the parade, the Public Works Department showcased some equipment and the Engineering Department had a display of Capital Improvement Projects.

### **Second Quarter Update**

**Goal 6A** During the second quarter, City Council and/or staff met with regional partners at CDBD Advisory Board, WCCLS, CLAB, the IWB, MPAC, the Regional Water Consortium, the Senior Center Board, the Tigard Chamber of Commerce Board, WCCCA, WCCC, the Tualatin Basin Natural Resource Coordinating Committee and the Westside Economic Alliance. The Council met with the Tualatin City Council and the Tigard-Tualatin School District on April 5. In addition, representatives of the Regional Economic Development Partners made a presentation to City Council on April 20. Metro Executive, David Bragdon, met with the Council on May 18.

**Goal 6B** Improvement and expansion to communications efforts included the following:

- Focus on Tigard - Over the last 3 months, Focus topics included the Downtown Plan, Budget 101 and Bull Mountain Annexation Plan
- Website – During the last quarter, staff posted a Downtown Survey and the Tigard Beyond Tomorrow Vision Survey. Staff is able to generate customized reports from the survey data that is posted on-line and into the system from paper surveys that have been submitted
- Committee for Citizen Involvement (CCI) – In May, staff recommended the CCI, made up of City of Tigard facilitators to begin regular discussions about ongoing citizen involvement efforts and ways to expand communications with citizens.

**Goal 6C** Staff has collected course outlines and materials for leadership series conducted in Beaverton and Lake Oswego. The next step is to finalize the schedule and topics for Tigard's citizen leadership series.

**Goal 6D** The Planning Commission, Downtown Task Force and Park Board have requested youth representatives.

**Goal 6E** Staff is working with the Tigard Blast Committee to combine the Citizens Fair with the Blast scheduled for Saturday, September 18. Coordinator meetings are scheduled for the week of July 12.

### **First Quarter Update**

**Goal 6A** During the first quarter of 2004, City Council members and/or staff met with Community Development Block Grant Advisory Board, Washington County Cooperative Library Services, Cooperative Library Advisory Board, Intergovernmental Water Board, Metro Policy Advisory Committee, Regional Water Consortium, Senior Center Board, Tigard Chamber of Commerce Board, Washington County Consolidated Communications Commission, Washington County Coordinating Committee, Tigard Festival of Balloons Planning Committee, Tualatin Basin Natural Resource Coordinating Committee, and the Westside Economic Alliance.

**Goal 6B** Improvement and expansion to communication efforts included the following:

**Focus on Tigard** – Focus on Tigard continues to be a valuable tool to inform citizens about upcoming events, programs and projects, and educate citizens about current programs.

Over the last six months, Focus topics have included the Capital Improvement Program, Bull Mountain annexation, water, the street maintenance fee, community events, and the volunteer program. Beginning with the April program, the format was changed so the focus topic is presented first with announcements closing the program.

Communication Plan – As part of the budget process, staff included a brief listing of their proposed communication plan for each major program or project. Including this information in the budget shows the Budget Committee, Council, and citizens how information will be disseminated on all major city programs and projects and serves as a reminder for staff on the variety of communication tools available.

There continues to be an emphasis on developing communication plans when projects and programs are initiated to ensure a proactive approach to communication and information sharing.

Web Site – Staff continues to add new features to the web page. Park reservations are now available online through the city's web page. In the last six months, visits to the city's web site have increased from 34,859 to 39,888 per month.

Cable Television – The Network Services Division has implemented an in-house civic studio training program. City staff members are currently being trained by Chris Myers, the city's Network Services Technician who is also trained as a Producer/Director/Camera Operator. One staff person has completed the training.

The goal of the training program is to expand the city's cable program production capacity and maximize the use of the civic studio.

**Goal 6C** A preliminary schedule has been developed for a citizen leadership series to start in October. Topics will include government finance, land use, transportation, and citizen involvement. Staff and guest speakers will present the material to the participants. It is expected that the program will be limited to 25 participants.

**Goal 6D** The City Council has appointed Lindsey Boyce, President of the Tigard Youth Advisory Council, as an ex officio member of the Council. Lindsey reviews the Council meeting material, asks questions and enters the discussion, but does not vote.

**Goal 6E** A tentative date, Saturday, September 25, has been set for the Citizens' Fair. Planning for the event will begin this spring.

COUNCIL MINUTES  
JOINT TIGARD CITY COUNCIL AND  
WASHINGTON COUNTY BOARD OF COMMISSIONERS MEETING  
December 20, 2004

The meeting was called to order at 6:40 p.m. by Mayor Dirksen.

Council Present: Mayor Dirksen, Councilors Moore, Sherwood, Wilson, and Woodruff

Commissioners Present: Board Chair Brian (arrived at 6:45 p.m.),  
Commissioners Duyck, Leeper, Rogers, and Schouten.

DISCUSSION ON ANNEXATION

City Manager Monahan opened the discussion noting the purpose of this meeting is for the City and County to touch bases after the recent two-year annexation efforts. He noted that Tigard proceeded with one annexation since the election and action for another annexation will be considered by the Council next week. The first area annexed was north of Bull Mountain Road (Alpine View). The area to be considered next week consists of 36 acres on Bull Mountain (Arbor Summit I and II and Bella Vista). The double majority annexation process was used.

Annexation of the Alberta Rider School property will be coming up soon.

(Chair Brian arrived at 6:45 p.m.)

Mr. Monahan reviewed a map showing properties, 516 parcels, in various stages of development. Proceeding with annexation will give the City an opportunity to collect system development charges. City staff estimates if the 516 sites are developed within the next five years, approximately \$1.9 million could be collected for purchasing and developing parks.

Mr. Monahan advised the City has worked over the years to identify park properties and referred to property next to the Menlor Reservoir, the Stanley property and property along the Bonneville power line. In recent discussions with the Trust for Public Lands, there is a possibility the City could obtain a small portion of property that remains from the original Stanley property and add to the Cache property. With the Bonneville power line property, there would be the possibility of a regional trail system from Beaverton through Tigard. Another potential project is located in the nature reserve area next to Roy Rogers Road.

County Administrator Charlie Cameron updated the City Council on recent activities by Washington County with regard to annexation activity by the City of Beaverton. The County has also met with representatives from King City to discuss an urban services agreement and to offer assistance to King City to guide King City growth. At this time, King City is considering what the boundaries should be for future annexation.

Mr. Cameron reported that agreement on Hillsboro and Beaverton boundaries has been difficult. Beaverton has adopted an aggressive annexation policy. The Beaverton unincorporated area is very large, and if annexed, thousands of people would be added to the city. Beaverton would probably not be able to provide services in a reasonable amount of time so a plan (shown on maps) was developed for a 10-year plan regarding providing services by Beaverton and the County.

Mr. Cameron noted the need to analyze the double taxation issue. Cities have raised concerns that taxpayers within city boundaries are subsidizing services to those who live in the unincorporated areas. The County plans to have the analysis completed within year, which will be overseen by the County Auditor.

A remaining issue is what to do with the urban reserve areas; the policy has been that urban reserve areas are assigned to a recipient city for annexation. The County feels that the beneficiaries of planning, the landowners, in the area should bear the costs for the planning. He noted one exception in that the County is performing the planning for the Bethany area because it is not directly adjacent to Beaverton.

Picking up the subject again of the double taxation issue, Mr. Cameron reviewed the types of revenue for the County, which include user fees where the customer bears full cost, and the uniform tax rate applied County-wide, which funds the services provided only by the County, such as the public health services. Money for land use planning comes from county-wide property tax dollars. Public safety funding comes from county-wide dollars as well as dollars contributed from Enhanced Sheriff Patrol areas. The County provides mutual aid services and funds special law enforcement teams.

Councilor Woodruff asked for clarification from the County Commissioners about their expectations of annexation. Commissioner Schouten said one of the items for review by the Legislature this session will be to clarify the use of single majority annexations, which he said should be available for use by cities. Mayor Dirksen advised that Senator Burdick and Representative Galizio have both expressed support for such legislation; in fact, Senator Burdick said she would sponsor a bill on this subject.

Chair Brian advised the County Board has not focused on the annexation issue since the election and said there is some work that needs to be done

legislatively. He noted additional issues to annexation, which include urban service delivery and land use issues that will come as a result of Measure 37. With regard to annexation policies, Chair Brian said that in the long run, it is better for people to receive urban services from a City. He noted the complications created when the County forms special service districts, which fill some of the needs to unincorporated area residents and, as a result, takes away some of the reasons to annex. He said he still wanted to continue to discuss annexation.

Mr. Cameron noted problems created when cities form boundaries for annexation that do not include the residential areas or the areas where more expensive services are needed. From the County's perspective this will lead to a fragmented community. Unincorporated areas could become primarily residential, which will have needs for services.

Discussion then turned to Comprehensive Planning. Tigard is in the beginning stages of a Comprehensive Plan review and update. For the unincorporated area's comprehensive planning, Chair Brian said this is not on the County's 2005 work plan. He suggested the County might be able to contribute a "rifle shot" effort versus a full comprehensive plan work up. Mayor Dirksen said he thought any planning should be done in a coordinated effort.

Commissioner Leeper commented about the "full plate" of subjects that the County Board considers and outlined his views on differentiation of services offered from the County and those offered by cities. He said he would expect that cities would pick up responsibilities for the roads in an area it annexes. He acknowledged the need to find a way to finance parks and recreation services.

Councilor Wilson said some pressure would be relieved if it would be possible to collect SDC funds and land bank areas. He noted the Bull Mountain area is developing so quickly and was concerned that any land that could be used for parks would be gone.

In response to a comment from Mayor Dirksen, Chair Brian said it would be in the best interest of residents to be in cities. Some areas are more ready than others to be annexed and the entire process will take time. He said the County is not equipped to offer the constant maintenance that subdivisions require. Chair Brian said the collection of SDC's should not be overrated. City Manager Monahan noted the City keeps losing ground when development occurs without collecting SDC's.

Commissioner Rogers referred to the recent annexation plan election and said he heard some common themes. He encouraged continued dialogue with the residents in the unincorporated area who want to know what value there would be in annexing. He noted the planning issues and concerns with densely developed properties. He said that Tigard has not indicated that it wanted to take

the roads in the area. Mayor Dirksen said roads might be taken in after a year. There is a need to collaborate on comprehensive planning, which would also address the parks issue. Another issue is for delivery of public safety services; i.e., services by Tigard and services from the County Sheriff. Commissioner Rogers noted he had concerns with the use of the single-majority annexation method.

Councilor Sherwood asked if Commissioner Rogers was asking the City to take over the roads first and then annex the neighborhoods? He replied that it would be difficult to annex the roads first and said there is a need to comprehensively and collaboratively look at projects. Commissioner Duyck suggested there be a commitment that, when an area is annexed, then the road will follow.

Commissioner Rogers said he supported collecting SDC fees within urban services boundaries.

Councilor Sherwood advised she had heard concerns by residents about pedestrian safety on Bull Mountain Road.

Commissioner Schouten said a possible funding source may come from a parks and greenspace levy that is now under consideration. MSTIP III could be a potential source for the greenspace planned in the power line corridor. The possibility of collecting SDC funds, buying land and holding it for future park land use was suggested again.

Chair Brian said he would like to assist in bringing dollars into the County from the Oregon State Parks Division for the power line trail, which he believed would have a good chance for funding.

Commissioner Rogers noted the need to resolve how the planning would be accomplished for the Bull Mountain unincorporated area. He noted the need to look "globally" at the area, so people do not feel like piecemealing is occurring. He asked if the City would be interest in a density transfer from Bull Mountain to the downtown.

Additional discussion followed on comprehensive planning and density transfers and how this would affect long-term planning (Tigard following a 20-year plan) and the need for a cooperative venture to address these issues. This coordination would also need to be done with LCDC and Metro. The community at large would need to determine where it would support increased densities. The urban reserve areas would also be impacted.

Commissioner Schouten noted there is a market for all different types of development and that increased densities could be a positive occurrence for certain areas.

Councilor Wilson noted this conversation about densities is taking place in many Metro communities. He referred to a "hardening of the edge" where the outer areas of the metro area are being developed more densely than SE Portland. He said Metro needs to be included in this discussion; he does not feel that "this is what our citizens want." He called for planning for a community that "we want." There may be an interest in more density in the downtown area, but everyone should be involved in the terms and the timeframe.

Commissioner Leeper noted the need for comprehensive planning a timely manner or development will occur under current zoning. He referred to a disruption of town center planning in his district because development was ready to go before the town center plan was in place. There was reference to the Washington County Project 2000 Plan, which called for the annexation of urban areas to cities. The plan has been moving at "glacial speed" while development has been going forward quickly.

Chair Brian suggested that County Administrator Cameron and City Manager Monahan assess what would be involved in a coordinated review of the Comprehensive Plan.

Mr. Monahan noted the upcoming goal-setting session with the Council, wherein the Council could determine priorities for the next year. Mayor Dirksen said plans have been to focus on Downtown planning for the next several months. Downtown planning and the comprehensive planning will dovetail. It will take a period of months to set up the citizen involvement program.

Commissioner Leeper said he was glad the City was emphasizing a good public outreach program.

Chair Brian advised that, as a Tigard resident, it was exciting to see planning move forward for the downtown area noting that timing is critical in order to take advantage of funding.

City Manager noted that efforts placed in Comprehensive Planning for the unincorporated area could be rolled into an Annexation Plan.

Commissioner Schouten pointed out that some funding sources are only available for cities. For example, the County cannot collect franchise fees and the cities receive a share of the gas taxes that are collected.

In response to a question from Commissioner Rogers about whether the City wanted to take responsibility for two urban reserve areas, Councilor Wilson clarified that he thinks the City should be involved in the planning for these areas and ultimately annex the areas to the City of Tigard. He said what he would not want is to be held to a predetermined outcome to develop a plan that was not liked.

Mr. Cameron advised that the past assumptions were that urban reserve areas would become part of the city immediately adjacent. The Board would need to decide this. He said the City that is to "get" the reserve areas should be involved in the planning for those areas.

The general consensus of the Council members and the Commissioners was that the County Administrator and City Manager should meet to discuss how to address the comprehensive planning issues as discussed at this meeting. Mr. Cameron noted there will be some tough policy and financial choices to be made along with some priority setting by the Board of Commissioners and the City Council.

Mayor Dirksen noted that recent survey results indicated that Tigard citizens would not want to form a separate park and recreation district with its own taxing authority. The survey indicated there was support for the City to provide the park and recreation services. He asked if the County could help fund.

A future meeting of the Commissioners and Council will be needed discuss the Corridor Revitalization project.

County Administrator Cameron referred to impacts due to the failure of the public safety levy. If the taxpayers choose not to authorize additional funding in 2006, there will be severe impacts to the system. He noted it was incumbent on the County to engage with the citizens so they understand the services and role of the County justice system (jails, courts, homeless shelters, district attorney, and emergency communications).

Motion by Councilor Woodruff, seconded by Councilor Wilson, to adjourn the meeting.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff:	Yes

The meeting adjourned at 8:35 p.m.

\_\_\_\_\_  
Catherine Wheatley, City Recorder

Attest:

\_\_\_\_\_  
Mayor, City of Tigard

Date: \_\_\_\_\_

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COUNCIL MINUTES  
TIGARD CITY COUNCIL MEETING  
December 28, 2004

- 1.1 Call to Order – Mayor Dirksen called the City Council & Local Contract Review Board to order at 7:31 p.m.
- 1.2 Roll Call – Mayor Dirksen and Councilors Moore, Sherwood, Wilson, and Woodruff were present.
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports: None
- 1.5 Call to Council and Staff for Non-Agenda Items:

City Manager Monahan said that staff requests Item No. 5 be delayed until February.

2. PUBLIC HEARING (Quasi-Judicial) - ARBOR SUMMIT AND ADJACENT PROPERTIES ANNEXATION – ZCA 2004-0001

The following description was read by City Attorney Ramis at the December 14, 2004 meeting:

**REQUEST:** The applicant is requesting annexation of two (2) parcels containing 8.9 acres into the City of Tigard, better known as Arbor Summit Subdivision I and II. An additional 9.29 acres has been included by means of consent (Bella Vista Subdivision). The City is also including a 17.91 acre piece of the contiguous Summit Ridge Subdivision by using double majority, as allowed by Oregon Revised Statute 222.170.2, Effect of consent to annexation by territory. Therefore, this annexation is for eight (8) parcels totaling 36.1 acres. **LOCATION:** Eight contiguous properties located between SW Bull Mountain Road and SW Beef Bend Road, east of SW 133<sup>rd</sup> Avenue and west of Turnagain Heights; also known as Arbor Summit I and II, Bella Vista, and a portion of Summit Ridge Subdivisions. 12780 and 12950 SW Bull Mountain Road; 12525, 12635, 12655 and 12825 SW Beef Bend Road; and 2 unaddressed parcels. Washington County Tax Assessor's Map Numbers 2S109AD, Tax Lots 1400 and 1500; 2S109DA, Tax Lot 2200; and 2S109DD, Tax Lots 100, 102, 300, 306 and 7000. **ZONE:** R-7: Medium-Density Residential District. The R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet. Mobile home parks and subdivisions are also permitted outright. Some civic and institutional uses are also permitted conditionally. **APPLICABLE REVIEW CRITERIA:** The approval standards for annexations are set out in Community Development

Code Chapters 18.320 and 18.390, Comprehensive Plan Policies 2 and 10; ORS Chapter 222; and Metro Code Chapter 3.09.

- a. Mayor Dirksen noted the hearing was continued from December 14, 2004.

- b. Declarations or Challenges:

Councilor Wilson advised that Lisa Hamilton Treick called him on the telephone and urged him to vote no on the proposed annexation. He reported that the conversation was not to the relevant criteria necessarily, it was more of a philosophical, broad natured discussion including long range policies for the Bull Mountain area. Councilor Wilson said this conversation would not cause him to be biased.

- c. Community Development Director Hendryx summarized the staff report. The hearing was opened on December 14, 2004, and upon request from the public, the record was held open for seven days so additional written testimony could be submitted. No new testimony was submitted. The applicant's legal counsel requested in a December 23 letter that the City Council approve the annexation submittal, stating that the evidence in the record supports a finding that the applicable approval criteria for annexation are satisfied.

Following the hearing of December 14, staff met with the City Attorney and revised the findings. The findings have been submitted to Council. Mr. Hendryx distributed revised ordinances for Options 1 and 2. The revision to both ordinances was to make the annexation effective immediately rather than 30 days from the date of Council action.

Community Development Director Hendryx referred to a map, which illustrated the two options before the Council. Option 1 would call for annexation of the total area, 36.1 acres, which includes Arbor Summit I and II, a portion of Summit Ridge (18 acres), and 9 acres of Bella Vista. Since the hearing, the applicant for Summit Ridge has submitted a Consent to Annex form for the entire Summit Ridge development; however, given where the City is in the process the entire Summit Ridge development could not be added to this land use application. The City is now in possession of two Consents to Annex, one for Summit Ridge and the Arbor Summit petition for annexation.

- d. Community Development Director Hendryx advised staff recommended adoption of Option 1, which would be Annexation of

Arbor Summit I and II, a portion of Summit Ridge, and all of Bella Vista Subdivisions.

e. Council Discussion

Upon request by Mayor Dirksen, Mr. Hendryx reviewed the current city limits' proximity to the proposed annexation area.

Upon request by Councilor Wilson, Mr. Hendryx explained the last Consent to Annex was received last Thursday at approximately 4:45 p.m., just before the Friday holiday. The applicant submitted two Consents; a Consent to annex and a waiver of the one-year time requirement to process an annexation request. The significance is that, with a Consent, the City may proceed with annexation of the property. This is something that the City regularly requires for projects that are outside the City but inside the urban services area where the City provides planning, engineering, and development-related services. He affirmed that Councilor Wilson was correct in that there is no opposition from any of the property owners.

f. Mayor Dirksen closed the public hearing.

g. Council Consideration:

Motion by Councilor Sherwood, seconded by Councilor Moore, to adopt Ordinance No. 04-15, Option 1.

Council discussion on the motion:

Councilor Woodruff acknowledged the testimony received two weeks ago. He advised he had reread the testimony that was provided. The proposed annexations are the kind that the City has done before. There would be no one on the properties that would be adversely affected. The City will be able to provide services and the boundary line will look better. He appreciated the testimony, but did not see any compelling argument against proceeding with the annexations.

Councilor Wilson said he agreed with Councilor Woodruff. While he would have thought the proposed annexation should have been non-controversial, he wanted to acknowledge that it is controversial. Having been through a very contentious annexation process, he was personally sympathetic to a lot of the goals that he heard and would like

to continue the dialogue with people in their respective areas. There are some common interests and he would like to work together to see what could be done to address those. On this particular issue, he supports the annexation, which continues a practice of about 15 to 20 years to annex an average of three annexations per year up to nine in a given year, which were similar to this one.

Mayor Dirksen commented that this annexation process is not unique to Tigard, but annexations like this one happen in other jurisdictions in the same way. The Mayor agreed with the comments of the Councilors and added that there would be nothing gained and much lost if the Council were to vote no. If the Council voted no, then the development could not take place and this decision would probably be appealed to a higher level and ultimately there would be no purpose to a no vote at this time. The opportunity would be lost to receive funds for parks acquisition and park improvements.

Councilor Sherwood said that this would give the City an opportunity to prove that with the SDC funds collected the City is working in the direction for park improvements. When the opportunities are there, "we need to take of it."

Councilor Woodruff said that at some point in the near future, he would like to have a presentation from the Parks Board to hear what is being done with the SDC funds.

Mayor Dirksen pointed out that there is a public City meeting on January 19 for the capital improvements program to gather citizen input for the coming year's capital improvement plan for projects they would like to see accomplished in the coming year.

The City Recorder read the following:

ORDINANCE 2004-15 – AN ORDINANCE ANNEXING 36.1 ACRES, APPROVING ARBOR SUMMIT ANNEXATION AND OTHER ADJACENT PROPERTIES (ZCA 2004-00001) AND WITHDRAWING PROPERTY FROM THE TIGARD WATER DISTRICT, WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT, WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT, WASHINGTON COUNTY STREET LIGHTING DISTRICT #1, AND THE WASHINGTON COUNTY VECTOR CONTROL DISTRICT, AND DECLARING AN EMERGENCY.

The motion was approved by a unanimous vote of the City Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes
Councilor Sherwood	Yes
Councilor Wilson	Yes
Councilor Woodruff	Yes

3. REVISED CITY/TRIMET MEMORANDUM OF UNDERSTANDING (MOU)

- a. Community Development Director Jim Hendryx reviewed the staff report, which is on file in the City Recorder's office. In December last year, Council considered and adopted a Memorandum of Understanding (MOU) with TriMet to formalize a partnership to plan for local service and pedestrian improvements. The revisions to the MOU were proposed because the timeframe of the original MOU was tied to the completion date for Commuter Rail. The new MOU reflects the change in Commuter Rail startup to FY 07 from FY 06. The revised MOU includes language changes requested by TriMet's legal office. None of the changes are substantive. A benefit to Tigard with the revised MOU is that it will give an additional year of transit agency time and attention to the City.

- b. Councilor Sherwood thanked staff for their work with TriMet for the benefit of Tigard.

Councilor Wilson said that Mayor Griffith deserves much credit as well for his efforts with TriMet.

Councilor Woodruff said he was disappointed that commuter rail is one year further away, but noted the opportunity to build the relationship with TriMet.

- c. Council Consideration:

Motion by Councilor Woodruff, seconded by Councilor Sherwood, to approve the revised Memorandum of Understanding.

The motion was approved by a unanimous vote of the City Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes
Councilor Sherwood	Yes

Councilor Wilson	Yes
Councilor Woodruff	Yes

4. PUBLIC HEARING – RESOLUTION TO ADOPT AMENDED MASTER FEES FOR LONG-RANGE PLANNING (Continued from December 14, 2004)

- a. Mayor Dirksen opened the public hearing, which was continued from December 14, 2004.
- b. Community Development Director Jim Hendryx presented the staff report, which is on file in the City Recorder's office. Council had directed staff to develop a long-range planning fee to help offset the costs of completing long-range planning studies and projects. The proposed resolution would increase certain land use planning fees.
- c. Public testimony: None
- d. Council discussion:

Community Development Director Jim Hendryx reviewed the Fees and Charges schedule attached to the ordinance explaining the increased fee is only on the base fee. The revenue raised from the proposed increase will be used to pay for external support and assistance on projects (outside resources) and not used for current staff resources. With assistance from the Finance Department, revenue will be tracked. Planning services are funded from the General Fund.

Discussion followed regarding this surcharge and how building and planning services are funded and accounted. In response to a question from Councilor Woodruff, Community Development Director Hendryx advised that at the time fees are paid, the applicant would receive information to identify that the fee is for use in the long-range planning program to offset the costs of major studies. -

Mayor Dirksen, Councilor Woodruff, and Councilor Wilson each commented that they wanted to be sure that these fees are recognized separately. The funds collected from the proposed increase in certain land use planning fees will go into the General Fund; however, Council members noted they would like to see clear accounting of how much was received and how the money was used. At the time of payment, the applicant should receive information on the fee bill showing what the charges are for.

- e. Mayor Dirksen closed the public hearing.
- f. Council consideration:

Motion by Councilor Wilson, seconded by Councilor Sherwood, to adopt Resolution No. 04-99.

RESOLUTION NO. 04-99 – A RESOLUTION AMENDING  
RESOLUTION NO. 04-37 BY AMENDING EXHIBIT A THERETO  
AND INCREASING CERTAIN LAND USE PLANNING FEES

The motion was approved by a unanimous vote of the City Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes
Councilor Sherwood	Yes
Councilor Wilson	Yes
Councilor Woodruff	Yes

5. PUBLIC WORKS DEPARTMENT: MISSION/VALUES EXERCISE  
RESULTS

This agenda item was set over to a February Council meeting.

6. REVIEW ADMINISTRATIVE ITEMS:

City Manager and Council discussed the following:

- The Council goal-setting meeting was set for January 18, 2005, 4 p.m. in the 2<sup>nd</sup> Floor Library Conference Room.
- The Council tour for the Capital Improvements Program was set for February 1, 3 p.m. Mayor Dirksen asked that the media be invited. City Manager Monahan advised the Transportation Financing Strategies Task Force was also invited.
- The first meeting of 2004 will be on January 11, at which time Mayor Dirksen and Councilors Woodruff and Harding will be sworn in. Newly elected officials will have an opportunity to speak after the oath of office ceremony.

7. Motion by Councilor Moore, seconded by Councilor Sherwood, to adjourn the meeting.

The motion was approved by a unanimous vote of the City Council present:

Mayor Dirksen:	Yes
Councilor Moore:	Yes
Councilor Sherwood	Yes
Councilor Wilson	Yes
Councilor Woodruff	Yes

The meeting adjourned at 8:29 p.m.

\_\_\_\_\_  
Catherine Wheatley, City Recorder

Attest:

\_\_\_\_\_  
Mayor, City of Tigard

Date: \_\_\_\_\_

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CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Approve Intergovernmental Agreement Between City of Tigard and Clean Water Services

PREPARED BY: Brian Rager 42 DEPT HEAD OK 38 2 CITY MGR OK 42

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ISSUE BEFORE THE COUNCIL

Should the Council approve the revised Intergovernmental Agreement (IGA) with Clean Water Services and authorize the City Manager to sign such agreement?

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STAFF RECOMMENDATION

Staff recommends the Council authorize the City Manager to execute the revised IGA with Clean Water Services.

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INFORMATION SUMMARY

Clean Water Services (CWS) recently worked with the City of Beaverton on a revision to their respective IGA for maintenance of sanitary and storm drainage facilities within Beaverton. CWS then offered each of the other cities within their service area to review the revised language of the Beaverton IGA and have the opportunity to review the revised Beaverton IGA and adopt any of the revised language of that agreement into their own IGA's. The goal here was to have consistent language in all city IGA's with CWS.

Tigard Staff has reviewed the Beaverton IGA, along with the City Attorney, and has made revisions to the Tigard IGA that is attached to this Summary. The terms of the agreement are not substantially changed. The majority of the language changes is considered housekeeping and provides clarity to responsibilities.

Staff also negotiated with CWS concerning an expansion of Tigard's area of responsibility, which would have included the unincorporated area of Bull Mountain. However, the City and CWS could not come to agreeable terms on that issue, so Tigard's area of responsibility will remain unchanged. The map attached to the IGA shows some areas outside of the Tigard city limits that, once annexed in the future, could be accepted by Tigard for maintenance responsibility. However, this would not be automatic. If Tigard would desire to take over those annexed areas in the future, Tigard and CWS would need to take separate and specific action with their decision-making bodies to make that official. Therefore, even when areas of Bull Mountain, or other parts of the unincorporated area, annex to Tigard, the sanitary and storm systems in those areas would remain under CWS maintenance responsibility until such time that Tigard makes a request to CWS.

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OTHER ALTERNATIVES CONSIDERED

Discontinue participation with Clean Water Services on the Intergovernmental Agreement.

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## VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

n/a

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### ATTACHMENT LIST

1. Intergovernmental Agreement
2. Map: Area of Responsibility
3. Appendix A, Division of Responsibilities (Two Parts)

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### FISCAL NOTES

Since Tigard's area of responsibility will not change, there will be no immediate fiscal impact. As development occurs in the City, additional assets will be added to the system for maintenance.

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN CITY OF TIGARD AND  
CLEAN WATER SERVICES**

THIS AGREEMENT is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2005, between the City of Tigard a municipal corporation of the State of Oregon, hereinafter referred to as "City," and Clean Water Services, formerly Unified Sewerage Agency, a municipal corporation and county service district, hereinafter referred to as the "District."

WHEREAS as a county service district organized under ORS 451, the District has legal authority for the sanitary sewerage and storm water (surface water) management programs within its boundaries consistent with relevant laws, rules and agreements. The District is the NPDES/Watershed/MS-4 Permit holder, and operates and maintains wastewater treatment facilities, surface water collection system and sanitary sewer systems within unincorporated areas and within certain cities within its boundaries; and

WHEREAS the City has certain legal authority relative to the operation and maintenance of the sewerage and surface water management systems as provided for under its charter, relevant laws, rules and the Agreement. The City performs a variety of functions critical to the operation, maintenance and management of sewerage and surface water management facilities as outlined in the Agreement. It is anticipated that this Agreement may periodically require updating or modification by agreement of the parties; and

WHEREAS as a county service district organized under ORS 451, the District has the legal authority for the sanitary sewerage and storm water (surface water) management programs within its boundaries consistent with relevant laws, rules and agreements. The District performs watershed, sub-basin and facility planning, develops standards and work programs, is the permit holder, and operates and maintains wastewater treatment facilities, surface water collection system and sanitary sewer systems within unincorporated areas and within certain cities within its boundaries. The District also performs various ancillary functions throughout the basin and within various cities; and

WHEREAS in 1970, City, by action of its Council pursuant to an election duly conducted within the boundaries of the District, agreed to be within such sanitary sewer district; and

WHEREAS in 1989, City consented by action of its Council to have District manage storm and surface water drainage within the District's boundary, including those portions of the system within the City, and consented to the petition to the Portland Metropolitan Area Boundary Commission (Boundary Commission) to expand District's authority to include storm and surface water drainage management, which was granted by the Boundary Commission; and

WHEREAS District and Washington County Cities have enjoyed a strong and effective partnership over more than three decades since District's formation. This partnership has greatly enhanced protection of public health and the environment and has been the foundation of enormous economic growth. Collaboration built through communication must remain as its cornerstone. Accordingly, the District and the City commit to cooperatively and openly engage each other in the timely discussion of topics of interest to the other party. A variety of forums and means will be employed to promote the above such as the Washington County Managers meetings, the City/District Technical Committee as well as ongoing individual communications.; and

WHEREAS, City and District have the authority to enter into contracts for the cooperative operation of service facilities under ORS 451.560 and ORS Chapter 190; and

WHEREAS, City and District previously entered into an Agreement for the cooperative operation of sanitary sewer and surface water facilities, and said Agreement is in need of amendment.

NOW, THEREFORE, in consideration of the covenants and agreements to be kept and performed by the parties hereto, it is agreed as follows:

#### Section 1. Definition of Terms

Wherever the following terms are used in this agreement they shall have the following meaning unless otherwise specifically indicated by the context in which they appear:

- A. Area of Assigned Service Responsibility means the area set forth in the map attached as Exhibit A as may be amended.
- B. Board means the Board of Directors of the District, its governing body.
- C. Chief Executive Officer means the City official responsible for managing the day-to-day business affairs of City.
- D. Council means the City Council, governing body of City.
- E. Industrial Waste means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industrial or manufacturing business, or from the development or recovery of natural resources. For the purposes of this agreement, Industrial Waste shall also include any substance regulated under 33 USC Sec 1317, together with regulations adopted thereunder.
- F. Operation and Maintenance means the regular performance of work required to assure continued functioning of the storm and surface water system and the sanitary sewerage system and corrective measures taken to

repair facilities to keep them in operating condition, and in compliance with the requirements of applicable laws, regulations, and permits. Operations and Maintenance Activities and responsibilities are defined in Appendix A.

- G. Order means Resolutions, Orders and Directives of the District prescribing general standards and conditions for construction or use of the storm and surface water facilities and the sanitary sewerage facilities, and Rates and Charges.
- H. Person means the state of Oregon, any individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever.
- I. Program Funding means the revenues made available to City through Section 4. of this agreement to follow the adopted work programs and performance standards.
- J. Rates and Charges are defined in the District's "Rates and Charges" Resolution and Order (R&O) No. 01-34, or as may be amended. The following terms when used in this agreement shall be as defined in that R&O:
1. Dwelling Unit Equivalent (DUE)
  2. Equivalent Service Unit (ESU)
  3. Impervious Surface Area
  4. Permit Application and Inspection
  5. Sanitary Sewer Service Charge
  6. Sanitary System Development Charge (SDC; Connection Charge)
  7. Storm and Surface Water Service Charge
  8. Storm and Surface Water System Development Charge
- K. Sanitary Sewerage System means any combination of sewer treatment plant, pumping or lift facilities, sewer pipe, force mains, laterals (to the limit of the public right-of-way and those which are subject to active rehabilitation), manholes, side sewers, laboratory facilities and equipment, and any other facilities for the collection, conveyance, treatment and disposal of sanitary sewage comprising the total publicly-owned Sanitary Sewerage System within District boundaries, to which storm, surface and ground waters are not intentionally admitted.
- L. Standards means the standards and conditions of use of the storm and surface water system and the sanitary sewer system as specified and adopted by the District. Standards also shall mean applicable statutes and rules of the United States and the State of Oregon. Nothing in this

agreement shall prevent the City from establishing more restrictive standards than those established by the District or standards that raise performance requirements.

- M. Storm and Surface Water System means any combination of publicly owned storm and surface water quality treatment facilities, pumping or lift facilities, storm drain pipes and culverts, open channels, creeks and rivers, force mains, laterals, (to the limit of the public right-of-way and those which are subject to active rehabilitation), manholes, catch basins and inlets, grates and covers, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water comprising the total publicly owned Storm and Surface Water System within District's jurisdiction, to which sanitary sewage flows are not intentionally admitted.
- N. Work Program and Performance Standards are adopted by the District after considering input from the cities to define the activities required to operate and maintain the sanitary sewer and storm and surface water systems.

## Section 2. Determination of Programs, Rules, Policies and Standards

The District as the Permit holder is responsible for the management and operation of the sanitary sewer and storm and surface water systems within its boundaries. The City shares certain responsibilities for the operation and maintenance of the sanitary sewer and storm and surface water systems within the City limits. The District is the designated permittee who shall obtain and enforce timely compliance with relevant federal and delegated state Clean Water Act permits for treatment plants, collection systems, and stormwater. The District, in cooperation with the cities from time to time may adopt orders, standards, specifications, work programs, and performance criteria for the proper and effective operation of the sanitary sewer and storm and surface water systems and to comply with state and federal permits, laws and regulations.

The District, when it adopts orders, standards, specifications, work programs and performance criteria shall give prior notice to the City of all proceedings wherein District Board shall consider such adoption. The District shall adopt such orders, standards, work programs and performance criteria only after the Board has addressed and considered the City's concerns, if any. Any such changes to work programs and performance standards that the Board determines are required by state and/or federal permits or regulations shall not be effective prior to 90 days from the date of adoption by District's Board or as otherwise mutually agreed to by the City and the District. The effective date of any changes to work programs and performance criteria not required by state and/or federal permits and regulations, shall be mutually agreed to by the District and City prior to consideration by the District's Board. The District agrees that whenever practical it shall communicate proposed changes not required by state and/or federal permits and

regulations in or before September of the year prior to the proposed adoption so as to allow the District and the City to budget appropriately for the following fiscal year.

A. City agrees to follow and enforce the Orders, Standards, specifications, work programs, and performance criteria promulgated by the District, subject, however, to program funding and to the extent that City may be lawfully authorized to act. The City shall not be responsible for any failure to act or defect in performance caused by lack of adequate program funding, inadequacies in the Work Program and Performance Standards as adopted by the District, or lack of lawful authority to act. Lack of adequate funding from the District and compliance with the Work Program and Performance Standards as adopted by the District shall be absolute defenses to any claim against the City under this Agreement. City further agrees to notify District of apparent violations of the subject Orders, Standards, specifications, work programs, and performance criteria, of which it has knowledge, which may require District legal action or enforcement.

### Section 3. Division of Responsibilities

#### A. Division of Responsibilities

1. The purpose of this agreement is to delineate responsibilities for the performance of specific functions. The responsibilities of the District and City are defined in this Section and Appendix A. Exhibit A is a map showing areas of service responsibilities for the District and the City.
2. All functions relating to the subject matter of this Agreement not specifically listed in this Section or Appendix A as being the responsibility of City shall remain the responsibility of the District.

#### B. Procedure for Modifying the Division of Responsibilities

1. Responsibilities defined in this Section and Appendix A may be modified from time to time with approval in writing by the City Manager or designee and the District General Manager or designee. Responsibilities may also be changed by notice to the District from the City that the City wishes to assume certain maintenance responsibilities for a specific area or areas that are inside the City limits and inside the City's area of Future Maintenance Responsibility as shown on Exhibit A. The City must provide such notice to the District in writing by January 1 of the year in which a transfer of service responsibilities is anticipated. Any transfer of service responsibilities will be effective July 1 of each year. The District will amend the Exhibit A responsibility map to indicate that an area has been added to the City's "Area of Assigned Service Responsibility".
2. Responsibilities defined in this Section and Appendix A may be modified by the District Board provided that the change is necessary to comply with state or federal permits, laws or regulations. The District

Board shall not reduce the total scope of City responsibilities without consent of the City unless:

- a. the Board, after notice to the City and a public hearing, establishes that the City has failed to correct identified instances of non-performance related to the adopted standards that are necessary to comply with state or federal permits, laws or regulations; or,
  - b. the Board decides that there is no practical alternative to a mid-fiscal year change in the allocation of revenue between the District and the City, as provided for in Section 4 of this agreement and changes the scope of City responsibility to reflect that different allocation of revenue.
3. Upon reasonable notice from City to District, District shall assume responsibility for any portion of the program defined in this Section and Appendix A. Reasonable notice shall be at least six (6) months, unless agreed to in writing by the District and City. Corresponding adjustments to the revenue allocation shall be made to reflect the change in responsibility upon implementation of such changes. City shall be responsible for correcting or paying to have corrected any deficiencies in the system resulting from non-performance of the programs under its responsibility, subject, however, to funding availability.
  4. The responsibilities defined in Appendix A and responsibility boundaries defined in Exhibit A are not changed due to City annexations of area currently inside the District's boundary. Provided that after formal adoption and subsequent consultation between the City and District, service area boundaries may be altered based on Senate Bill 122 boundary revisions. For annexations of territory not currently within the District's boundary, the District will amend Appendix A and Exhibit A to define the responsibilities for the new area in cooperation with the City and in cooperation with adjacent cities.

#### C. Additional City Responsibilities

1. Prior to issuing any non-residential sanitary sewer permit, the City shall require the applicant to prepare and submit to City, a District Sewer Use Information form. City shall submit the completed form to the District. The District will determine if an Industrial Waste Discharge Permit is required. The District will respond within 15 days from the date that the completed form is received by the District.
2. The City will require persons who are proposing development, as defined in the District's Design and Construction Standards Resolution and Order, to obtain a Service Provider Letter from the District. At

anytime during the life of this agreement, the City may choose to issue such Service Provider Letters.

3. Concurrent with the City review and initial Land Use approval, the City will forward proposed construction drawings to the District for the following:
  - a) Any addition, modification, construction, or reconstruction (other than repairs) of the publicly-owned sanitary sewerage system and storm and surface water system. District will review these drawings to assure conformance to adopted District standards, orders, and master plans.
  - b) Any "development" as defined in the District's Design and Construction Standards Resolution and Order. District will review these drawings to assure conformance with the conditions of the Service Provider Letter issued following the provisions in Section 3.C.2.

The District shall not charge a fee for these types of reviews. The City shall not approve or issue permits for such work until it receives notification of District approval. The District shall complete its reviews within 15 working days from its receipt of complete construction drawings from the City, otherwise the City may consider the drawings as being approved by the District.

4. The City may notify the District in writing that it wishes the District to issue Connection Permits for either or both of the sanitary or storm water systems. In such cases, the District shall not issue Connection Permits until the City indicates in writing that the development complies with the City's standards. City will collect all connection, permit, and development fees for developments within the City unless City and District agree that the District will collect the fees.
5. Other than for issuance of connection permits, obtain District review and approval prior to entering into any agreement for the use of the Storm and Surface Water System or the Sanitary Sewerage System.
6. The City will inform the District in writing not less than 30 days prior to initiating or entering into any agreement for the financing or incurring of indebtedness relating to the storm and surface water system or the sanitary sewerage system. Revenues allocated by the District to the City for the performance of functions identified in Appendix A are considered restricted, and may only be used to perform those functions (including reasonable administration and security for bonds) delegated to the City for such things as operation and maintenance of the sanitary or storm and

surface water system. City shall not obligate any assets or facilities of the District's sanitary or storm and surface water system for any debt. For purposes of debt funding, the District's asset schedule for storm and surface water and sanitary sewer facilities shall be the basis for determining ownership within City boundaries. In general, sanitary sewer lines 24" and over are the property of the District regardless of location, as are sanitary treatment plants and pump stations, and storm and surface water quality and quantity facilities that are one acre or greater in surface area.

7. The City will allow the District access at any reasonable time upon reasonable notice to inspect and test storm and surface water facilities and sewerage facilities within City and City Area of Geographic Responsibility.
8. The City will waive fees for permits granted to the District as may be necessary for the installation of storm and surface water facilities and sewerage facilities in the public streets and ways of City without imposing permit issuance fees, but only to the same extent as the City waives such fees for itself, and provided that the District shall adhere to any conditions required pursuant to ORS 451.550(6).
9. The City agrees to issue no new permit for the construction within, or modification to, a wetland, floodway, or floodplain without first receiving the written approval by the District, pursuant to Section 5.D. This paragraph shall not apply to permits issued by City pursuant to a current permit under 33 USC Section 1344(e) (a section 404 general permit), and within the scope of such permit. This section does not apply to actions related to City flood insurance program. The City retains the responsibility to issue land use approvals and building permits.
10. The City agrees to pursue, when City deems feasible and appropriate, the conversion of storm and surface water facilities from private to public ownership, through the acquisition of easements and other property rights as necessary, for those privately owned storm and surface water facilities which are identified as being necessary or appropriately a part of the public system.
11. To the extent that it is so required by law or regulation, City shall comply with Oregon Administrative Rules (OAR) Chapter 340, Division 49, "Regulations Pertaining to Certification of Wastewater System Operator Personnel," including the obligation that City shall have its wastewater collection system supervised by one or more operators certified at a grade level equal to or higher than the system classification shown on page 1 of District's NPDES permit, issued by the State. The

District shall notify City of any modification to the NPDES permits affecting their operations.

D. City Responsibilities Outside of its City Limits

1. Notwithstanding the procedures in Section 3.B, City is not obligated by this agreement to accept responsibility for any programs or work activities outside of its City limits other than by mutual agreement of the parties.
2. To the extent City has agreed to responsibilities both inside and outside of its City limits, for activities which are the responsibility of City, City shall perform the work to meet the minimum requirements specified in the District's adopted Work Programs and Performance Standards. When the same type of service is being performed by City both inside and outside City, the service shall be prioritized and performed in a like manner in each area, including the response to storms and other emergencies. The exception shall be if City provides a higher degree of service inside City due to its own supplemental funding.

E. Additional District Responsibilities

1. The District will inform the City in writing not less than 30 days prior to initiating or entering into any agreement for the financing or incurring of indebtedness relating to the storm and surface water system or the sanitary sewerage system. Revenues allocated to the District for the performance of functions identified in Appendix A are considered restricted, and may only be used to perform those functions (including reasonable administration and security for bonds) delegated to the District for such things as operation and maintenance of the sanitary or storm and surface water system. The District shall not obligate any assets or facilities of the City's sanitary or storm and surface water system for any debt. In general, sanitary sewer lines 24-inch and over and parallel sanitary sewer lines to a common downstream connection with hydraulic capacity equivalent to a 24-inch line are the property of the District regardless of location, as are sanitary treatment plants and pump stations.
2. The District will allow the City access at any reasonable time upon reasonable notice to inspect and test storm and surface water facilities and sewerage facilities within City and District Area of Service Responsibility.
3. To the extent District provides services inside the Tigard City limits, the District shall perform the work to meet the minimum requirements specified in the District's adopted Work Programs and Performance

Standards. When the same type of service is being performed by City or District both inside and outside the City, the service shall be prioritized and performed in a like manner in each area, including the response to storms and other emergencies. If the City provides a higher level of service inside its adopted service area due to its own supplemental funding, the District shall provide that same level of service provided that the allocation of revenue between the parties reflects the cost of the higher level of service.

4. Upon transfer of maintenance responsibilities for an area to the City, the District and the City shall conduct a joint inspection of the sanitary sewer and storm and surface water system. The District shall confirm that it will provide funding for the correction of identified deficiencies in a manner that is consistent with the priorities established by the District's work program. The annexation of an area by the City or the transfer of maintenance responsibilities to the City for an area will not change the priority for repairs or improvements assigned by the District.

#### Section 4. Determination and Division of Revenue: Operating Procedures and Rules Relating to Revenue

- A. After consultation between City and District staff, the District Board shall determine and certify annually for both the sanitary sewerage system and for the storm and surface water system the monthly service charge and system development charge. The City agrees to impose these charges as a minimum. The City may impose additional charges as allowed in Section 4.E.4.
- B. After consultation between City and District staff, the District Board shall determine and certify annually for both the sanitary sewerage system and for the storm and surface water system the portion of the monthly service charge and system development charge to be retained by the City for performance of the functions defined in this Agreement and for the City's share of annual debt service payment. Except as provided in Section 4.D, District shall notify City by the September preceding the start of the next Fiscal Year of any proposed decrease in the monthly service charge and system development charge to be retained by the City and any other proposed changes that could affect the City's 5-Year Sanitary Sewer or Stormwater Financial Forecast Plans..
- C. The District Board shall not implement any significant change in the division of monthly service charge revenue from that shown in the Rates and Charges Resolution and Order No. 01-34 effective Fiscal Year 2001/2002 until July 1, 2005 with the following exceptions:
  1. The Board may make routine principal and interest adjustments for debt service repayment.

2. The Board may make adjustments in response to significant increases or decreases in program responsibilities
- D. Changes in the division of revenue for the reasons described in Section 4.B. 1 & 2 will typically be made as a part of the annual Fiscal Year budget process. However, the division of revenue may be adjusted by the District to recognize changes in responsibilities that occur outside the normal budget cycle after coordination and communication with the Cities. Any such mid-year changes in the division of revenue initiated by the District Board shall only be implemented when the Board determines such a change is necessary to comply with state or federal permits, laws or regulations. If there is a mid-year change in responsibilities, which the District determines to be significant, the District Board may, upon 60 days notice to City, adjust the division of revenue outside of the annual budget process. The Board shall not change the division of revenue without responding to the City's concerns and a determination that not other practical alternatives to increase revenues are available and can reasonably be implemented.
- E. Operating Procedures Relating to Revenue
1. City shall remit to the District the portion of sanitary sewer service charges and systems development charges collected, and storm and surface water service charges and systems development charges collected, less the City Portion, as identified in Section 4.B.
  2. Payments shall be remitted on a monthly basis, with a report on District designated forms.
  3. Payments to the District of revenue collected by the billing party shall be due within 20 days following the end of each month, unless the payment has been appealed by the billing party.
  4. The City may charge and collect a service charge or system development charge for areas within the city limits at a higher rate per EDU and ESU than that set by the District when the City determines it is needed for the system within the city limits. The City shall retain 100% of these additional revenues collected. Such additional charge shall be consistent with the services provided by City and with applicable federal rules in order to preserve eligibility for grants and other funding programs.
  5. City may request District to perform permit and inspection services for private development construction of public storm and surface water facilities and sanitary sewer facilities, and for erosion control. City shall remit to the District the fee set forth in District's Rates and

Charges to compensate District for its costs for such services performed relative to these fees, as prescribed by District Order or separate agreement with City.

6. For Industrial Waste fees, District shall remit to City a percentage of system development charges, volume, and monthly service charges collected equal to the percentages of service charges retained by the City as defined in Section 4.B. District shall retain one hundred percent (100%) of the annual Industrial Waste permit fee, and any penalty fees, COD, SS (as those terms are defined in the Rates and Charges) and other fees related to Industrial Waste that may be assessed.
7. City will institute administrative procedures to diligently maintain regular billings and collection of fees, adjust complaints thereto, and pursue delinquency follow-ups and take reasonable steps for collection thereof.
8. City and District shall each establish separate accounts for the storm and surface water program and sanitary sewerage program for the purpose of accounting for service charges and systems development charges collected and received pursuant to this agreement.
9. District or City may at any reasonable time upon reasonable notice inspect and audit the books and records of the other with respect to matters within the purview of this Agreement.
10. City and District shall each prepare and submit to each other a performance report of the storm and surface water functions, and the sanitary sewer functions for which each is responsible. The District will specify the requirements, frequency, and content of the performance report after considering and responding to the City's concerns.
11. The City and District may, each at its own cost, install permanent and temporary volume and quality monitoring stations, and other monitoring equipment, to determine the effectiveness of City and District programs.
12. Interest may accrue on late monthly payments as specified in Section 4.E.1 at a rate of 1.25 times the monthly Local Government Investment Pool (LGIP) earnings rate as posted for the previous month, and will be applied each month to the unpaid balance.

#### Section 5. Administrative and Operating Provisions

- A. The District will not extend sanitary sewer or storm and surface water service to areas outside the City except with prior approval of the City where such areas are included in the Urban Planning Area Agreement between the City and the appropriate county or counties and any of the following exists:
1. A new or existing single family property desires sewer service and needs to directly connect to a sewer line within the city.
  2. A new development desires sewer service and needs to directly connect a lateral or mainline public sewer directly to a sewer line within the city.
- B. Each party shall obtain and maintain in full force and effect for the term of this agreement, at its own expense, comprehensive general liability and automobile insurance policies for bodily injury, including death, and property damage, including coverage for owned, hired or non-owned vehicles, as applicable, for the protection of the party, and the other party, its elected and appointed officials, officers, agents, employees and volunteers as additional insureds. The policies shall be primary policies, issued by a company authorized to do business in the State of Oregon and providing single limit general liability coverage of \$2,000,000 and separate automobile coverage of \$1,000,000 or the limit of liability contained in ORS 30.260 to 30.300, whichever is greater. If either party is unable to obtain insurance as required by this sentence, the parties shall cooperate on amending this Section to require types and levels of insurance that are available. The certificates shall provide that the other party will receive thirty (30) days' written notice of cancellation or material modification of the insurance contract at the address listed below. Each party shall provide certificates of insurance to the other party prior to the performance of any obligation under this agreement. If requested, complete copies of insurance policies shall be provided to the other party. Each party shall be financially responsible for their own deductibles, self-insurance retentions, self-insurance, or uninsured risks.
- C. District will not establish local assessment districts within City, without first obtaining City approval.
- D. District will process applications from City pursuant to Section 3.C.9 for Wetland, Floodplain, and Floodway modifications within 15 days of receiving such applications. Upon review and approval by District, and upon request by City, the District shall act as a facilitator and liaison for State and Federal review and permit processes.
- E. The City shall report all sanitary sewer overflows that it becomes aware of to the District within 24 hours of learning of the overflow. The City shall require all permittees of the City to report sanitary sewer overflows to the City. City agrees to reimburse District for any expense, costs, damages,

claims, fines, or penalties incurred by District that result from or are related to City's failure to so timely and adequately report.

- F. This agreement is for the benefit of the parties only. Each party agrees to indemnify and hold harmless the other party and its officers, employees, and agents, from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death or damage to property or the environment on account of or rising out of the operation of this Agreement, including the performance or non-performance of duties under this Agreement, or in any way resulting from the negligent or wrongful acts or omissions of the indemnifying party and its officers, employees, and agents. In addition, each party shall be solely responsible for any contract claims, delay damages or similar items arising from or caused by the action or inaction of the party under this agreement. Inability to perform an activity or to properly perform because of insufficient funding from the District is not a negligent act or omission or willful misconduct of the party charged with the activity but shall be the responsibility of the District. Performance of any activity in compliance with the Work Program and Performance Standards as adopted by the District is not a negligent act or omission or willful misconduct.
- G. District and City acknowledge that District may receive notices of violation or fines from state or federal agencies for violations of state or federal rules. As the permittee and the entity that establishes standards and controls payment, District shall be responsible for responding to notices of violations and for payment of all fines. District shall invite the City to participate in any discussions with state and federal agencies regarding notices of violation involving City actions or responsibility. City will cooperate with District in the investigation and response to any notice of violation involving actions relating to actions or responsibilities of the City and shall allow the City to defend its own interests in any contested case proceeding concerning an alleged violation both in the proceeding and in any appeal therefrom. If a fine is imposed, City shall reimburse District to the extent that the fine results from non-performance of adopted programs or non-compliance with District, state, or federal rules or policies by the City and those acting on behalf of the City. If possible, the City shall reimburse the District prior to the date due for payment of the fine. The City shall not be responsible for reimbursement if the City's non-performance or non-compliance was caused by lack of adequate funding by District. If more than one party is responsible, the City's responsibility for reimbursement payment will be allocated based on the degree of responsibility and degree of fault of the City. Disputes over the amount of reimbursement shall be resolved by the dispute resolution process set out in Section 6 of this Agreement. To the extent that the City is required to perform any work to correct a violation, District shall provide adequate funding for the work to be performed, unless the violation was caused by the City's omission or misconduct.

- H. Nothing in this Agreement shall be construed as a limitation upon or delegation of the statutory and home rule powers of City, nor as a delegation or limitation of the statutory powers of District. This Agreement shall not limit any right or remedy available to City or District against third parties arising from illegal acts of such third parties.
- I. Where this Agreement calls for review or approval of a fee or charge, District shall perform such review in a timely manner, shall not unreasonably withhold approval, and shall provide its decision to City in writing. If, within 30 days of written request by City for approval by District, the District has failed to provide a written response, the request shall be deemed approved.

#### Section 6. Dispute Resolution; Remedies

- A. In the event of a dispute between the parties regarding their respective rights and obligations pursuant to this Agreement, the parties shall first attempt to resolve the dispute by negotiation. If a dispute is not resolved by negotiation, the exclusive dispute resolution process to be utilized by the parties shall be as follows:
  - 1. Step 1. Upon failure of those individuals designated by each party to negotiate on its behalf to reach an agreement or resolve a dispute, the nature of the dispute shall be put in writing and submitted to City's Chief Executive Officer and District's General Manager, who shall meet and attempt to resolve the issue. If the issue in dispute is resolved at this step, there shall be a written determination of such resolution, signed by City's Chief Executive Officer and District's General Manager, which determination shall be binding on the parties. Resolution of an issue at this step requires concurrence of both parties' representatives.
  - 2. Step 2. In the event a dispute cannot be resolved at Step 1, the matters remaining in dispute after Step 1 shall be reduced to writing and forwarded to the Mayor and the Chairman of the Board of Directors. Upon receipt of the written issue statement, the Mayor and Chairman shall meet and attempt to resolve the issue. If the issue is resolved at this step, a written determination of such resolution shall be signed by the Mayor and Chairman. Resolution of an issue at this step requires concurrence of both the Mayor and the Chairman.
  - 3. Step 3. In the event a dispute cannot be resolved at Step 2, the parties shall submit the matter to mediation. The parties shall attempt to agree on a mediator. In the event they cannot agree, the parties shall request a list of five (5) mediators from the American Arbitration Association, or such other entity or firm providing mediation services

to which the parties may further agree. Unless the parties can mutually agree to a mediator from the list provided, each party shall strike a name in turn, until only one name remains. The order of striking names shall be determined by lot. Any common costs of mediation shall be borne equally by the parties, who shall each bear their own costs and fees therefor. If the issue is resolved at this step, a written determination of such resolution shall be signed by both parties. Resolution of an issue at this step requires concurrence by both parties. In the event a dispute is not resolved by mediation, the aggrieved party may pursue any remedy available to it under applicable law.

- B. Neither party may bring a legal action against the other party to interpret or enforce any term of this Agreement in any court unless the party has first attempted to resolve the matter by means of the dispute resolution of subsection A above. This shall not apply to disputes arising from a cause other than interpretation or enforcement of this Agreement.
- C. Parties may mutually agree in writing to waive any of the above steps, or to enter into alternate processes or additional processes such as binding arbitration prior to filing legal action.

#### Section 7. Effect of this Agreement

This Agreement shall supersede all prior agreements of similar scope and subject matter, including amendments and the "City Committee Agreement" between the parties with respect to sanitary sewerage and service, storm and surface water management; provided that, except as expressly modified herein, all rights, liabilities, and obligations of such prior agreements shall continue. This Agreement shall be effective upon its execution by both parties hereto, and shall continue in effect for five years. This Agreement shall be deemed automatically renewed for a series of succeeding five year terms up to a limit of 25 years, with the mutual agreement of the City and the District. If the District enters into an intergovernmental agreement with any other city in its territory covering the same subject as this Agreement and if any of the provisions of the other agreement differ from this Agreement, the City may elect to replace any provision of this Agreement with the parallel provision from the other agreement, with the exception of Appendix A and Exhibit A. The replacement shall be effective on receipt by District of written notice from the City. This Agreement may not otherwise be modified except by written amendment or as otherwise specified in this Agreement.

#### Section 8. Amendments

At any time, either party may request in writing to open this Agreement for specific amendment. If such request is made, the other party must respond within 90 days. If the parties do not agree and the party requesting such amendment desires to proceed with the amendment, then remedies pursuant to Section 6 shall apply. All amendments shall be in

writing and approved by the governing body of the respective parties and incorporated into the agreement.

Section 9. Severability

In the event a court of competent jurisdiction shall deem any portion or part of this Agreement to be unlawful or invalid, only that portion or part of the Agreement shall be considered unenforceable. The remainder of this Agreement shall continue to be valid.

IN WITNESS WHEREOF, this instrument has been executed in duplicate by authority of lawful actions by the Council and District Board of Directors.

CLEAN WATER SERVICE  
OF WASHINGTON COUNTY, OREGON

CITY OF TIGARD, OREGON

By \_\_\_\_\_  
Chairman, Board of Directors

By \_\_\_\_\_  
Mayor

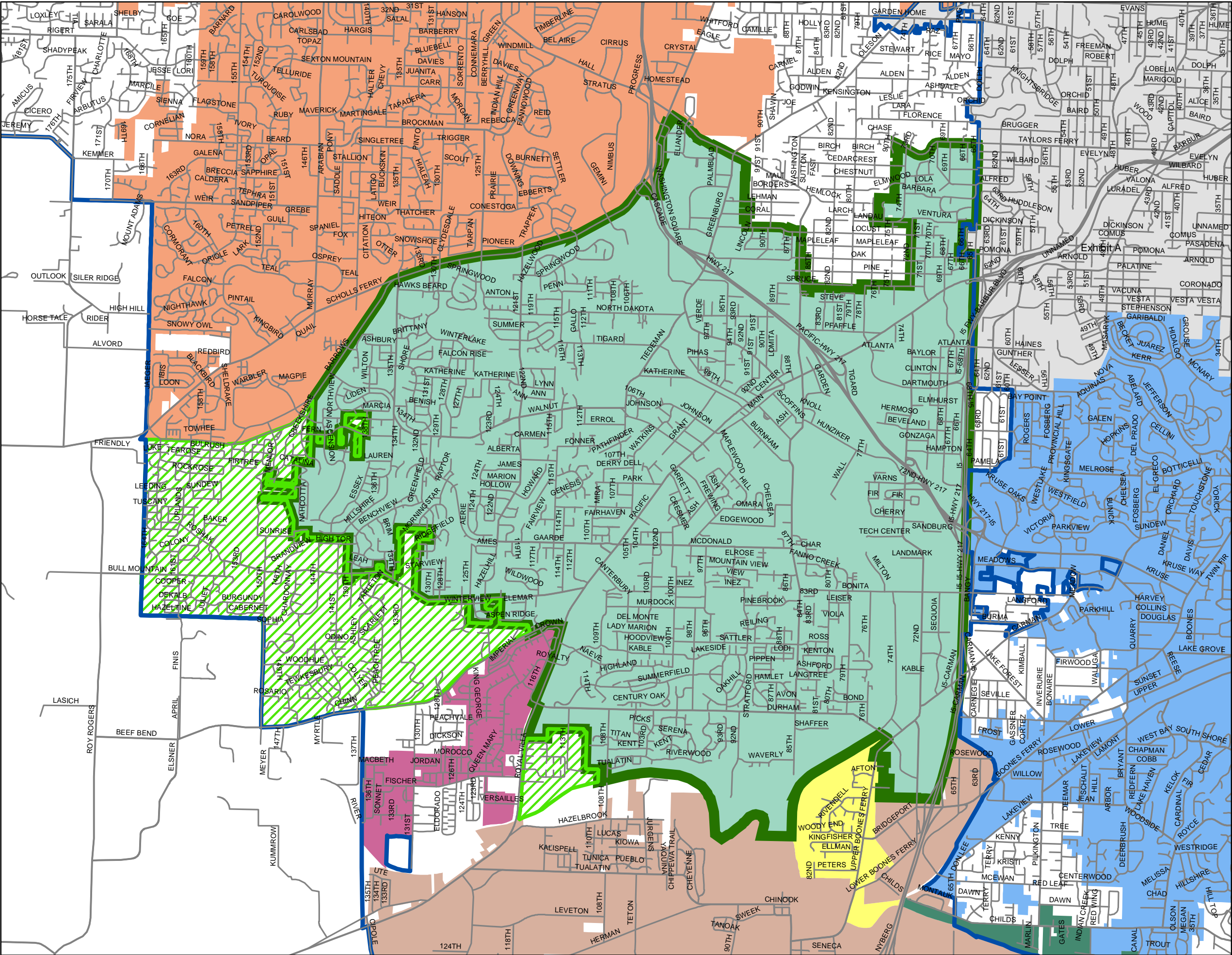
Approved as to Form:

Attest: \_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Attorney for District

\_\_\_\_\_  
City Attorney

# Tigard Responsibility Boundary Map



**LEGEND**

- Tigard Responsibility Boundary
- Tigard Area of Future Maintenance Responsibility
- Beaverton City Limits
- Durham City Limits
- King City City Limits
- Lake Oswego City Limits
- Portland City Limits
- Rivergrove City Limits
- Tigard City Limits
- Tualatin City Limits
- CWS Boundary

APPENDIX A	1/11/2005		
<b>DIVISION OF RESPONSIBILITIES</b>	<b>EFFECTIVE THROUGH JUNE 30, 2005</b>		
<b>TIGARD</b>			
<b>Basic Workplan</b>	Inside City Limits	Outside City Limits	
<b>Sanitary Maintenance</b>			
Lines under 24"			
Line Cleaning	City	District	
Root Cutting	City	District	
Emergency response	City	District	
Overflow and Complaint response and investigation	City	District	
Cross connection investigation and response	City	District	
Manhole adjustment	City	District	
Non-structure line sealing and point repair	City	District	
Manhole rehabilitation (sealing)	City	District	
TV inspection	City	District	
Compilation of TV reports and system evaluation	City	District	
I&I abatement and system rehabilitation projects	District and City	District	
Root Foaming	City	District	
Structural line repairs	City	District	
Line replacements	City	District	
Pump station maintenance	District	District	
Lines 24" and Larger			
All maintenance, inspection, repair, and replacement	District	District	
<b>SWM Maintenance</b>			
Line Cleaning	City	District	
Root Cutting	City	District	
Catch Basin cleaning	City	District	
Water quality manhole maintenance	City	District	
Storm and emergency response	City	District	
Complaint response and investigation	City	District	
Street Sweeping	City	District	
Water Quality facility maintenance	City for local District for Regional	District	
Water Quantity facility maintenance	City for local District for Regional	District	
Maintenance of public Streams/creeks/open channels	City	District	
Processing and disposal of sweeper, catch basin and storm line material	City	District	
Structural line repairs	City	District	
Line replacements	City	District	
Pump station maintenance and operation	District	District	

Roadside ditches and piping system in County Roads	District	District	
TV inspection	City	District	
Compilation of TV reports and system evaluation	City	District	
Proactive Leaf management program	City	District	
<b>ENGINEERING, INSPECTION, AND SUPPORT ELEMENTS</b>			
Development Process (development review, plan review)	City	District	
Sanitary Sewer connection permit issuance	City	District	
SWM connection permit issuance	City	District	
Billing and collection of monthly service charges	City	District	
Inspection of developer projects	City	District	
Installation of Sanitary Sewer Masterplan Projects	City 21" and less, District 24" & up	District	
Installation of Masterplan Pump Station Projects	District	District	
Installation of SWM Masterplan Projects	City	District	
Erosion control permit issuance	City	District	
Erosion control inspection	District	District	
Accounting	City	District	
Industrial Waste Program	District	District	
Maintaining GIS information	City and District	District	
Maintaining system mapping	City and District	District	
Maintaining Engineering records of systems	City and District	District	
Preparing and revising sanitary sewer masterplans	District	District	
Preparing and revising SWM masterplans	District	District	
Response to customer billing inquiries	City	District	
Public information, newsletters, etc., for SWM and Sanitary programs	City and District	District	

APPENDIX A		1/11/2005	
DIVISION OF RESPONSIBILITIES		EFFECTIVE JULY 1, 2005	
Tigard	Inside City, and Inside Responsibility Boundary	Outside City, and Inside Responsibility Boundary	Inside City, and Outside Responsibility Boundary *(See Note 1 Below)
<b>Sanitary Maintenance</b>			
Lines under 24"			
Line Cleaning	City	City	
Root Cutting	City	City	
Emergency response	City	City	
Overflow and Complaint response	City	City	
Cross connection investigation and response	City	City	
Manhole adjustment	City	City	
Non-structure line sealing and point repair	District	District	
Manhole rehabilitation (sealing)	District	District	
TV inspection	City	City	
Compilation of TV reports and system evaluation	District	District	
I&I abatement and system rehabilitation projects	District	District	
Root Foaming	District	District	
Structural line repairs	City/District	City/District	
Lateral Repairs in Public Right of Way	City/District	City/District	
Line replacements	City/District	City/District	
Pump station maintenance	District	District	
Vector Control	City	City	
Utility Locates	City	City	
Offroad inspection and locator post maintenance	City	City	
Easement and Access Road Maintenance	City	City	
Lines 24" and Larger			
All maintenance, inspection, repair, and replacement	District	District	
<b>SWM Maintenance</b>			
Line Cleaning	City	City	
Root Cutting	City	City	
Catch Basin cleaning	City	City	
Water quality manhole maintenance	City	City	
Storm and emergency response	City	City	
Complaint response investigation and reporting	City	City	
Street Sweeping	City	City	
Water Quality facility maintenance	City Local, District Regional	City Local, District Regional	

Water Quantity facility maintenance	City Local, District Regional	City Local, District Regional	
Maintenance of public Streams/creeks/open channels	City	City	
Processing and disposal of sweeper, catch basin and storm line material (excluding leaves)	District	District	
Structural line repairs	City/District	City/District	
Line replacements	City/District	City/District	
Pump station maintenance and operation	District	District	
Roadside ditches and piping system in County Roads	District	District	
Roadside ditches and piping system in City Roads	City, Funded by Street Fund	None	
TV inspection	City	City	
Compilation of TV reports and system evaluation	District	District	
Proactive Leaf management program	City	City	
Utility Locates	City	City	
<b>ENGINEERING, INSPECTION, AND SUPPORT ELEMENTS</b>			
Development Process (development review, plan review)	City	District	
Sanitary Sewer connection permit issuance	City	District	
SWM connection permit issuance	City	District	
Billing and collection of monthly service charges	City	District	
Inspection of developer projects	City	District	
Installation of Sanitary Sewer Masterplan Projects	City 21" and under, District 24" & up	District	
Installation of Masterplan Pump Station	District	District	
Installation of SWM Masterplan Projects	City	District	
Erosion control permit issuance	City	District	
Erosion control inspection	District	District	
Accounting	City	District	
Industrial Waste Program	District	District	
Fat, Oil, Grease Program	District	District	
Maintaining GIS information	City and District	City and District	
Maintaining system mapping	City and District	City and District	
Maintaining Engineering records of systems	City and District	City and District	
Preparing and revising sanitary sewer masterplans	District	District	
Preparing and revising SWM masterplans	District	District	
Response to customer billing inquiries	City	District	
Public information, newsletters, etc., for SWM and Sanitary programs	City and District	City and District	

Flow Monitoring	District	District	
Formation and Administration of LID's	City and District	District	
Inspection of Private Facilities	City	District	
Marking Utilities	City	City	
Fixture Counting	District	District	
Field Yard General Maintenance	City	District	
* Note 1 - "Inside City, and Outside Responsibility Boundary", This column is blank because there are no areas that this applies to. In the future, if there are areas, the responsibilities will be defined.			

CITY OF TIGARD, OREGON  
LOCAL CONTRACT REVIEW BOARD (LCRB) AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Award of contract for City-wide janitorial services to Wellspring Services

PREPARED BY: Jaime Dumdi DEPT HEAD OK PJ DC CITY MGR OK u

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ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Shall the Local Contract Review Board (LCRB) award a contract for City-wide janitorial services to Wellspring Services?

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STAFF RECOMMENDATION

Staff recommends that the LCRB award the contract for City-wide janitorial services to Wellspring Services and authorize staff to finalize the contract with the vendor.

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INFORMATION SUMMARY

In 1977, the Oregon legislature passed the "Products of Disabled Individuals" Act (ORS 279.835 to ORS 279.855). This law obligates all state and local governments, school districts, and other tax-supported political bodies in Oregon, to purchase goods and services from Qualified Rehabilitation Facilities (QRFs) when the product or service meets their requirements. A QRF is a non-profit organization that puts Oregonians with disabilities to work. The mission of a QRF is to help disabled people achieve self-confidence and self-sufficiency by working in the community in which they live and becoming productive citizens. It is "qualified" because its programs are registered and reviewed on a regular basis by various state and federal agencies such as the Oregon Department of Human Services (DHS), Oregon Department of Administrative Services (DAS) and the National Industries for the Severely Handicapped (NISH).

One of the services that is provided by a number of QRF vendors is janitorial/custodial services. The City initially contracted with Tualatin Valley Workshop (TVW) to provide janitorial services. It became apparent in the initial stages of the contract that TVW was not providing janitorial services at the appropriate levels required by the City. After many attempts to try to resolve the problems, staff determined that it was in the best interest of the City to terminate the contract with TVW.

Staff has been in negotiations with a new janitorial service provider, Wellspring Services, to meet the City's needs. Wellspring has been able to meet the City's budget requirements for janitorial services. This price determination has been approved by the State Department of Administrative Services, as required by law in contracts between government agencies and QRFs. The City has contracted with Wellspring for interim janitorial services since January 6, 2005 and is pleased with their service level to date. Staff is recommending the award of a one-year contract with Wellspring Services, with four additional one-year options.

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OTHER ALTERNATIVES CONSIDERED

1. Do not approve the purchase of janitorial services from Wellspring Services.

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VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

None.

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ATTACHMENT LIST

1. Memorandum, dated 1/10/05, to Bill Monahan from Brian Rager, Assistant Public Works Director.

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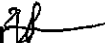
FISCAL NOTES

The annual cost of the City-wide services is estimated to be \$180,000. The total expense of the contract, if all option years are exercised, will be approximately to be \$900,000.

**MEMORANDUM  
CITY OF TIGARD, OREGON**

**DATE:** January 10, 2005

**TO:** Bill Monahan, City Manager

**FROM:** Brian Rager, Assistant Public Works Director 

**RE:** New Janitorial Contract

As you know, the City terminated its contract with Tualatin Valley Workshop, Inc. (TVW), a Qualified Rehabilitative Facility (QRF) that was providing janitorial service to the City. The contract with TVW was terminated because they failed to provide acceptable levels of cleanliness and their personnel were having great difficulty in learning the standards and procedures the City expected. I believe the biggest problem with TVW was their inability to manage the contract. After many months on the job, the learning curve remained as steep as when they began, and complaints from Staff continued to be received regarding the same issues day after day.

Effective January 6, 2005, the City retained a new contractor, also a QRF, to perform janitorial services for the City on a 30-day contract. State law requires the City to exhaust all possible QRFs before employing a private sector contractor for certain services, including janitorial maintenance. The new contractor, Wellspring Services, appears to be much more professional. They service the Multnomah County Courthouse, and are reported to be doing a very good job there. Wellspring Services was the high bidder during the City of Tigard's initial RFP process. When contacted by the City, Wellspring Services agreed to enter into a contract with the City at the same price we agreed to pay TVW (\$180,000 per year for five years), hence there is no negative impact on the City either cost wise or service wise.

Currently, we have one Building Maintenance Technician assigned to work with Wellspring Services for the first two weeks of the contract. They also will spend the first week or two focused on a rapid upgrade of our facilities to the cleanliness standards we set by doing some extra deep cleaning work. This will make the Library immediately more presentable to the public and will allow us to achieve the standard we aspire to in a shorter period of time.

If you have any questions about this transition, please let me know.

C: Jaime Dumdi, Management Analyst  
Dennis Koellermeier, Public Works Director

CITY OF TIGARD, OREGON  
LOCAL CONTRACT REVIEW BOARD (LCRB) AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Approve Amendment to Engineering Services Contract for Murray Smith & Associates, Inc., for Design of 550-foot Zone Reservoir No. 2

PREPARED BY: Brian Rager RR DEPT HEAD OK RR DC CITY MGR OK LM

ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

The proposed contract amendment for additional services on the 550-foot Zone Reservoir No. 2 project exceeds 20 percent of the contract amount. Administrative Rule 10.090(1)(b) states that any change to a contract should not exceed 20% without competitive bidding. Staff requests the LCRB waive Administrative Rule 10.090(1)(b), and authorize the amendment.

STAFF RECOMMENDATION

Staff recommends the LCRB waive Administrative Rule 10.090(1)(b) and authorize the City Manager to execute an amendment to the Engineering Services contract with MSA in the amount of \$58,000.00.

INFORMATION SUMMARY

In May, 2003, the City entered into a contract with MSA for design services for the 550-foot Zone Reservoir No. 2. The proposed location for the tank is on the Alberta Rider Elementary School site, located on SW Bull Mountain Road. MSA performed preliminary engineering work for a location on the site approved by the School District design team. However, the School District design team changed the location of their school building through the course of their design work and the tank location no longer is available. The District has offered to the City another location on the site near the northeast corner. Staff has reviewed this new location, along with other possible sites in the area, and has determined that the City should explore the new location on the Rider site.

In order to move forward with this new location, MSA will need to perform preliminary engineering work again. Attached is a memorandum from MSA that explains the steps they will take and the financial impact of the amendment. The additional preliminary engineering work is estimated to cost approximately \$58,000.00. The alternative to approving this amendment would be to issue a Request for Proposals (RFP) for this specific preliminary engineering work. Staff recommends against this option for several reasons: 1) MSA holds the contract for the remaining design work on the reservoir, which would mean the City would have to coordinate between two engineering consultants for the same project; 2) MSA is most familiar with this site and this project; and 3) the reservoir project has been delayed due to the issue mentioned in the above paragraph and an RFP process would add at least two more months to the delay.

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### OTHER ALTERNATIVES CONSIDERED

Do not approve the contract amendment and direct staff to issue a Request for Proposals for the additional work.

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### VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Urban & Public Services, Water & Stormwater Goal #1, Strategy #3, "Build identified water capital improvements." The Rider School site was selected as the target site for this capital improvement.

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### ATTACHMENT LIST

Memo, dated January 7, 2005, from MSA to Brian Rager.

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### FISCAL NOTES

The amendment will increase the value of the contract by \$58,000. The original contract amount was \$268,355.00. Therefore, this amendment is a 21.6% increase.

**MEMORANDUM**

**DATE:** January 7, 2005

**DRAFT**

**PROJECT NO.:** 03-0619.101

**TO:** Mr. Brian Rager, P.E. – Project Manager  
City of Tigard

**FROM:** Chris Uber, P.E.  
Murray, Smith & Associates, Inc.

**RE:** 550-Foot Reservoir No. 2 - Relocation Redesign Cost Summary

In accordance with your direction we have resumed preliminary engineering and design work for the above reference project. We understand that the proposed 550-Foot reservoir will now be located at the northeasterly corner of the Alberta Rider School site. The original location planned for the reservoir was in the southeast corner of the property and a substantial amount of design work has been completed specifically for this site including subsurface geotechnical borings. MSA's memorandum of September 23, 2004 presented an evaluation of siting alternatives and presented estimated construction cost and engineering cost impacts of these alternatives.

Constructing the reservoir at the northeasterly corner of the school site will require, among a number of items, deeper excavation, deeper yard piping and special shoring considerations. Additional engineering work is required to complete project designs, specifically for Tasks A, Task C and Task E of the approved scope of work. Additional engineering work and associated impact on design fees are summarized as follows:

Item	Additional Budget
Task A – Preliminary Design	\$2,000
Task C – Geotechnical Investigation	19,000
Task E – Final Design	37,000
Total	\$58,000

We greatly appreciate this opportunity to continue serving the City of Tigard and are excited to be resuming work on this important project. We look forward to meeting with you soon to review a revised project schedule and to reestablish key project milestones.

AGENDA ITEM # 3.4c.  
FOR AGENDA OF 1/25/05

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE LCRB – Agent of Record Contract – Service Fee Reduction

PREPARED BY: Loreen Mills *Green* DEPT HEAD OK *WMA* CITY MGR OK *WMA*

ISSUE BEFORE THE COUNCIL

Should the Local Contract Review Board (LCRB) receive and file an amendment to the Insurance Agent of Record Contract?

STAFF RECOMMENDATION

LCRB – Receive and File – Insurance Agent of Record Contract amendment which reduces the annual service fee by excluding commission payment for placing Workers' Compensation coverage.

INFORMATION SUMMARY

The LCRB awarded a contract to JBL&K to serve as the City's Insurance Agent of Record on 12/2/03. JBL&K have served the City well since 1995, and continues to provide excellent access to the insurance market place and has strong public sector expertise to assist the City in addressing its liability exposures.

In light of the ongoing budget constraints and day-to-day management of the contract, staff and JBL&K worked during 2004 to find ways to measure performance under the contract, looking for both effectiveness and efficiency in services. Part of this staff-initiated review required an examination of the commissions earned by JBL&K to determine if there was some way to reduce the commissions while maintaining the service.

After several weeks of discussion, JBL&K and the City arrived at an agreement to reduce the commission starting 1/1/05 by JBL&K not charging for placement of the City's Workers Compensation coverage. In the 04/05 fiscal year, this would have meant a 19% decrease in the commissions paid on the contract.

While a reduction in cost does not require LCRB approval, staff wanted LCRB to be aware of the change in the contract as well as advise LCRB that this type of review continues to occur as contracts are managed through the year.

OTHER ALTERNATIVES CONSIDERED

N/A

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VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

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ATTACHMENT LIST

Copy of the Contract Amendment document dated 12/21/04.

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FISCAL NOTES

Reduction of the Insurance Agent Commission would have equaled about \$8,550 this fiscal year. This will be reflected in the 05/06 budget based on the anticipated cost of the Workers Comp premium for next year.

# Copy of the Contract Amendment document dated 12/21/04

## CONTRACT AMENDMENT CITY OF TIGARD INSURANCE AGENT OF RECORD

This Contract Amendment is entered into by and between the **City of Tigard**, a municipal corporation of the State of Oregon (City) and **JBL&K Risk Services** (Contractor) and amends that contract dated December 2<sup>nd</sup>, 2003 on file with the Tigard City Recorder as the Insurance Agent of Record Contract.

Now, therefore, it is hereby agreed that the first paragraph of the Compensation provision (Section #3) of the Insurance Agent of Record Contract is amended as follows with underlined language being added:

“Contractor will be compensated through standard commissions paid by insurance carriers providing coverage for the City of Tigard on all lines of coverage except Workers Compensation. The Workers Compensation coverage will be placed by Contractor with no applicable commission. Any special projects or special services requested by the City, other than those listed in Exhibit A, which may involve extra fees, will be negotiated before the service beings.”

This Amendment will commence on January 1<sup>st</sup>, 2005 and will remain in effect through the duration of the Insurance Agent of Record Contract.

William A. Monahan  
City Manager

Ron Cutter  
Contractor

Date: December 21, 2004

Date: December 17, 2004

AGENDA ITEM # 4  
FOR AGENDA OF January 25, 2005

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Elect Council President to Serve Until December 31, 2005

PREPARED BY: Cathy Wheatley *Cathy* DEPT HEAD OK *Wm* CITY MGR OK *Wm*

ISSUE BEFORE THE COUNCIL

Elect the Council President for the next two years (2005 and 2006)

STAFF RECOMMENDATION

Conduct Council President Election at the January 25, 2005, Council meeting.

INFORMATION SUMMARY

Section 18 of the Tigard City Charter states that the Council shall elect from its membership a Council President to perform the duties of the office of Mayor in the Mayor's absence from a meeting or if the Mayor should be unable to perform the functions of office. This election is done by ballot at a Council meeting; in fact, the Charter specifies the first meeting of odd-numbered years as the time to hold the election.

After checking with the City Attorney on procedure, staff recommended that Council set over, by motion, the Council President Election to the January 25, 2005, Council meeting. This delay would give staff an opportunity to review and explain the role of Council President at the January 18, 2005, Goal Setting Council Meeting for the benefit of the new Council member and to give all Councilors the opportunity to consider whether or not he or she would like to serve as Council President. At its first meeting of the year, January 11, 2005, Council approved a motion to set over the Council President election to its January 25, 2005 meeting.

Ballots will be distributed to Council members at the January 25, 2005 meeting

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

None

FISCAL NOTES

N/A

AGENDA ITEM # 5  
FOR AGENDA OF 1/25/05

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Tigard Vision Update Report

PREPARED BY Loreen Mills & Liz Newton DEPT HEAD OK LMN CITY MGR OK LMN

ISSUE BEFORE THE COUNCIL

Receive and file the 2004 progress and accomplishment report for Tigard's vision process

STAFF RECOMMENDATION

Receive and file the report.

INFORMATION SUMMARY

In 1996, the Tigard City Council expressed concern that the community's future was too important to leave to chance and directed a process to pull resources together to determine long-term goals for Tigard. Residents, government professionals, business people, and community group leaders volunteered to work together to determine the community's future direction. Adopting the name "Tigard Beyond Tomorrow," they established a process that defined a vision for our community and identified resources for implementing that vision through partnership of individuals and organizations.

During 2004 and each year since 1996, the citizen-based Action Committees have reviewed and updated the strategies and action plans to accomplish the goals of "Tigard Beyond Tomorrow." The 2004 annual review was critical to ensure we stay on track with the changing times and desires of our community.

The Council has received periodic presentations and information about some of the progress on the community's vision achievements, however, this meeting time is set aside to review the highlights of the 2004 achievements in all target areas.

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

The Vision Task Force is a citizen-based group that is volunteering their time so the vision goal is that of Volunteerism. "City will maximize the effectiveness of the volunteer spirit to accomplish the greatest good for our community."

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ATTACHMENT LIST

N/A

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FISCAL NOTES

The cost of the 2004 survey was budgeted and done as part of the *Cityscape* mailing budget.

AGENDA ITEM # 6  
FOR AGENDA OF Jan. 25, 2005

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Update on the Library Strategic Plan and Operational Hours

PREPARED BY: Margaret Barnes DEPT HEAD OK MB CITY MGR OK Luan

ISSUE BEFORE THE COUNCIL

Update of library operations and the strategic planning process.

STAFF RECOMMENDATION

The staff recommends consideration of additional hours of operation to re-open the Library on Sundays through the end of the fiscal year. The staff also recommends that the Council continue to support the Library's strategic planning process.

INFORMATION SUMMARY

In October, the Council received an update from the Library Board and the Library Director on the reduction of the number of hours the library was open to the public. The Board and the Director shared statistics on the first two months of library use in the new library. At that time the Library representatives agreed to return with an update after the library had been open for several more months.

Statistics from the first six months of operation show significant increases in library users over the same period of time in 2003. Adult program attendance also showed considerable growth. The Board and the Director will share information about the impact of fewer hours on library operations.

In the past few months Library staff have continued to receive feedback and complaints regarding the reduced hours, especially the closure of the library on Sundays. From patron comment cards, letters and emails, library users continue to advocate for the library to open on Sundays. To add Sunday hours, funds from the Grace Tigard Houghton bequest could be used. Funds are available and are not restricted, which could be allocated now for this purpose.

A second purpose of this meeting is to update the Council on the Library's strategic planning process. Since the October meeting, the library has held two public meetings to help chart the course of the library for the next five years. Both meetings were productive. Participants were engaged and enthusiastic about the role the library should play in the community and how it would accomplish that.

The staff and the Library Board will work together to develop goals and objectives based on the recommendations from the Planning Committee. The Council will receive a final update in the spring once the planning report has been written.

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### FISCAL NOTES

The additional revenue needed to re-open the library 4 hours on Sundays would be approximately \$1,300 per week or about \$26,000 for the remainder of the fiscal year if implemented within the next few weeks.

### ATTACHMENTS

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1. Memo
2. PowerPoint Presentation



## MEMORANDUM CITY OF TIGARD

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TO: Bill Monahan, City Manager

FROM: Margaret Barnes, Library Director *Margaret Barnes*

DATE: January 11, 2005

SUBJECT: Library Strategic Plan and Operational Hours

### **Library Strategic Plan**

The Library Citizen's Strategic Planning Committee met in November 2004 and again this month to develop a recommendation for focused service responses for the library for the next five years. The Committee envisioned the future of Tigard and discussed current conditions. Based on those discussions, the Committee then articulated the needs of the Community. In order to meet those needs, the Committee identified recommended service responses for the Library. These recommendations include the following areas for the library to focus on as collections, programs and services are developed for our community.

Current Topics & Titles  
General Information  
Information Literacy  
Commons  
Cultural Awareness

These recommendations have been reviewed with the Library Board. Staff will now begin to develop a formal service plan for the next five years based on the input from the Citizen's Committee. The plan will be completed by April and presented to the Council at that time.

### **Operational Hours**

The new library has been open now for six months and has experienced a dramatic increase in use even with a reduction of hours. One startling statistic is the number of new library users. From August to December 2004 3,121 new library users have been registered. This represents a 95% increase in this activity when compared with the same six months in 2003.

Other increased public activity includes:

33% increase in the use of public computers,  
15% increase in books, DVDs, videos checked out  
63% increase in Reference Desk transactions  
33% increase in Visitors

During this same time many of the comments from the public have been positive. People have an enjoyable experience when they come to the library. The community is starting to use the community room, and the study rooms in the library are very popular. Based on the above statistics it appears that more people want to use the library. Because circulation statistics are tied to our funding from WCCLS, it is in the City's best interests to keep the library open when people will use it the most.

Because of the failure in May 2004, of the WCCLS Operational levy a reduction of hours was implemented in August. This reduction resulted in the closure of the library on Sundays. During the past six months the closure of the library on Sundays has been a primary topic of public comment/dissatisfaction. The timing of the closure has also caused confusion for some people. Many have confused the funds needed for operations in order to keep the library open with the funding needed to construct the new building. It is most unfortunate that just when the City opened a new library strongly supported by Tigard voters, it has become more inconvenient for many of them to use the library.

According to state standards, a library with a service population the size of Tigard's should be open a minimum of 60 hours per week. Based on the public feedback we have received to date, the Library's current priority is to restore a minimum of 4 hours per week to allow the library to reopen on Sundays. That would bring the total number of hours the library is open to 58 hours per week, still considerably less than the 69 hours per week it was open in 2001-02.

The benefits would include providing increased access to the community, thereby promoting good will. Making it more convenient to use the library would introduce more people to the programs and services it offers, thereby increasing library use. Our funding from the county is impacted by the level of library use. It may also correct the erroneous belief that the City intentionally promoted the construction of a new library without adequate operational funding.

### **Funding Needs**

The additional revenue needed to re-open 4 hours for the remainder of the fiscal year would be approximately \$1,300 per week. Depending upon how these hours are implemented, the total needed to restore those hours for the remainder of this fiscal year would be about \$26,000.

One option for the remainder of this fiscal year would be to use funds from the Grace Tigard Houghton bequest. A similar action was taken in May 2004 to allow the library to be open 54 hours per week. The Library Director has spoken with Mr. Curtis Tigard

about using the funds in this manner. He believes that transferring those funds would be in keeping with the wishes of his sister and in the spirit of the bequest.

### **Options for Council Consideration**

- Authorize additional funding to allow the library to re-open on Sundays for the remainder of this fiscal year.
- Allocate up to \$26,000 from the Grace Tigard Houghton bequest.
- Track the success and patron satisfaction of Sunday hours prior to the spring 2005 City Budget Committee meetings and report the findings to Council.

### **Recommendation**

The recommendation is for the City Council to authorize additional funding to allow the library to re-open on Sundays at least for the remainder of fiscal year 2004-2005.

## Update on Library Strategic Plan and Operational Hours

January 25, 2005

## Strategic Plan

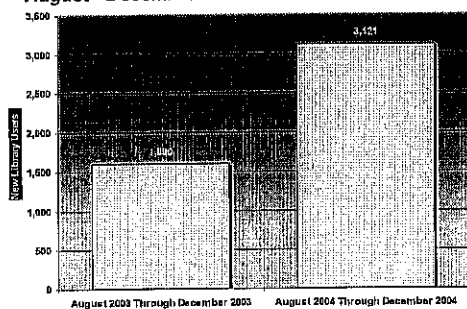
- ❖ Community Participation
- ❖ Service Responses

## Recommended Service Responses

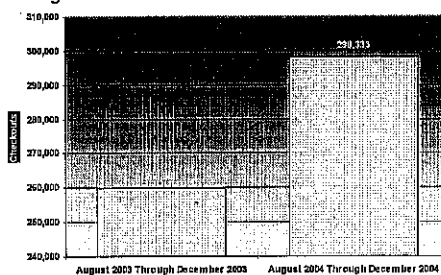
- ❖ Commons
- ❖ Cultural Awareness
- ❖ Current Topics and Titles
- ❖ General Information
- ❖ Information Literacy

## Operational Hours Update

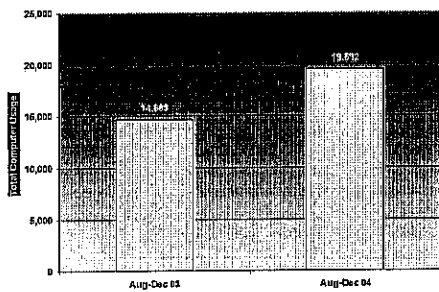
**Comparison of New Library Users**  
*August - December 2003 and 2004*



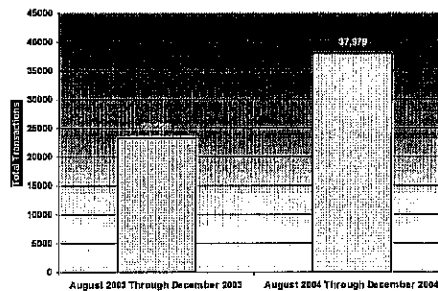
**Comparison of Total Checkouts**  
*August - December 2003 to 2004*



### Comparison of Public Computer Use August - December 2003 to 2004



### Comparison of Reference Desk Transactions August - December 2003 to 2004



### Half-Year Milestones

- Checkouts 15%
- Program Attendance 19%
- Public Computers 33%
- Reference Desk Inquiries 63%
- Visitors 30%

### Recommendation

- Restore Sunday Hours at Tigard Public Library

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Affordable Housing Fee Assistance Request

PREPARED BY: Duane Roberts DEPT HEAD OK [Signature] CITY MGR OK [Signature]

ISSUE BEFORE THE COUNCIL

Should Council award budgeted housing fee assistance funds to an applicant seeking assistance? The applicant is seeking \$9,915 in City assistance.

STAFF RECOMMENDATION

After reviewing the completed application and listening to the presentation, Council should act on the request. Staff has reviewed the application and determined that the request complies with all program guidelines.

INFORMATION SUMMARY

In September 2002, Council adopted the Affordable Housing Program, intended to emphasize and encourage affordable housing in the Tigard community. The program includes a range of land use and non-land use affordable housing promotion tools and strategies. One of the non-land use tools was a new budget set-aside designed to reduce fees and charges imposed on affordable housing acquisition, development, and rehabilitation. A copy of the adopted guidelines that define the requirements and conditions for the award of the subsidy funds to housing providers is attached (Attachment 1).

FY 04-05 is the third year of the fee assistance operation. In FY 02-03, the Council awarded \$4,000 to Community Partners for Affordable Housing (CPAH) to offset building permit fees imposed on proposed repairs to the Greenburg Oaks Apartments (formerly, Villa La Paz). In FY 03-04 Washington County Housing Services was awarded \$10,000 to offset fees and charges imposed and anticipated on the rehabilitation of the 96-unit Bonita Villa Apartments. According to program guidelines, applications are accepted twice per year. No applications were received during the first round of the FY 04-05 funding period. One application was received during the second intake period ending in December 2004. This is a CPAH request for \$9,915 to offset building permit fees anticipated on major repairs to the Greenburg Oaks Apartments.

CPAH is planning a \$2.5 million redevelopment of the Greenburg Oaks Apartments located at 11905 SW 91<sup>st</sup> Ave. Construction work is proposed to begin in May 2005 and to be completed in the period December 2005-February 2006. The City Building Official has looked at and concurs with the fee estimates provided by CPAH.

The project meets City guidelines with respect to eligible activities, zoning, tenant income, time limits, Enhanced Safety Program participation, and other guidelines.

As indicated in guideline #8 of Attachment 1, an in-person presentation to City Council is required as part of the application process. The date set for the presentation is the January 25, 2005, Council meeting. A CPAH representative, Martin Soloway, will be available at the meeting to overview the organization's request and to answer any questions Council may have.

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#### OTHER ALTERNATIVES CONSIDERED

Award fewer or no dollars.

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#### VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Growth and Growth Management Goal #3 calls for the City to encourage and support "private sector programs to maintain diverse and affordable housing."

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#### ATTACHMENT LIST

Attachment #1. Affordable Housing Fee Assistance Guidelines  
Attachment #2: Affordable Housing Fees and Charges Assistance Request

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#### FISCAL NOTES

A total of \$9,915 in fee assistance is requested. The approved 04/05 Community Events and Social Services budget is \$10,000. Any funds not used during the fiscal year will return to the General Fund budget.

## Affordable Housing Fee Assistance Guidelines

1. Both for- and not-for-profit entities are eligible to apply for affordable housing fee assistance funds.
2. Eligible activities include affordable housing acquisition, development, and rehabilitation. Affordable housing acquisition and development will receive greater consideration than rehabilitation.
3. High consideration will be given to projects that facilitate the dispersal of affordable housing within the City.
4. The proposed project must be consistent with City housing policies and applicable planning and zoning standards.
5. Only units targeted to households earning at or below 50% of median income are eligible for City funds. Units targeted to households earning 60% of median income are eligible when the project includes an equal number of units serving households at or below 50% of median.
6. The organization guarantees that the housing produced or rehabilitated will maintain long-term affordability, with long-term defined as the longer of 25 years, or, if applicable, the life of any State or Federal loan used to finance the project.
7. The organization guarantees that the project will be enrolled in the City Enhanced Safety Program (ESP) and maintain ESP certification for the respective (a.) period of long-term affordability defined in guideline #5, or (b.) the life of the ESP program.
8. Council review and approval of each separate award will be required. This review will include an in-person presentation to Council by a representative of the organization making the request.
9. The time limit on the use of the funds is two years.
10. Applications for assistance will be accepted twice per year. Applications shall be submitted on forms provided by the City of Tigard.
11. The maximum amount available is \$500 per qualified unit, up to the current Social Services and Events Fund affordable housing set-aside line item balance.

# ***Tigard Affordable Housing Fee Assistance Program***

City of Tigard, Oregon  
13125 SW Hall Blvd.  
Tigard, Oregon 97223  
503-639-4171

**FY 2004-05**

## **AFFORDABLE HOUSING FEES AND CHARGES ASSISTANCE REQUEST**

<i>Organization Name:</i>	<b>COMMUNITY PARTNERS FOR AFFORDABLE HOUSING, INC.</b>
<i>Address:</i>	<b>P.O. Box 23206</b>
<i>City, State, Zip:</i>	<b>Tigard OR 97281</b>
<i>Contact Name:</i>	<b>Martin Soloway, Deputy Director, Housing</b>
<i>Telephone Number:</i>	<b>503 968-2724</b>
<i>Email address:</i>	<b>msoloway@cpahinc.org</b>
<i>Address/location of the project site:</i>	
<b>GREENBURG OAKS APARTMENTS 11905 SW 91<sup>st</sup>, Tigard OR 97223</b>	

**1. Briefly describe your organization and the type(s) of affordable housing opportunities you provide or are seeking to provide.**

Community Partners for Affordable Housing (CPAH) develops new and preserves existing housing resources for those with the greatest need who live or work in the Tigard-Tualatin area and Southwest Portland.

CPAH owns three apartment complexes that provide housing for families at 60% or less of the Portland metropolitan area median income: Greenburg Oaks, Metzger Park, and Village at Washington Square. CPAH also owns one five-bedroom, single family rental home and has begun construction on Oleson Woods, a new 32 unit family apartment project next to Washington Square Mall.

All units are priced to be affordable to very low income households earning 60% or less of the area median income. However the average CPAH household income is

much lower than this at 31% of AMI. CPAH offers a wide range of programs at its properties designed to support the healthy development of children and families.

**2. Describe the activity for which you are requesting fee relief.**

CPAH is planning a two and a half million dollar redevelopment of Greenburg Oaks. Both unit interiors and external environment improvements are planned. Attached is a preliminary outline of anticipated work to be completed. The project hopes to include new plumbing lines and fixtures in all units, new cabinets and appliances and improvements to unit ventilation. Exterior improvements include landscape upgrades, physical enhancements to the buildings and parking area, construction of a covered play area, installation of a trash compactor and recycling area. The project will be repaved and building trim will be repainted.

The rehabilitation is being financed through a number of private and public sources. The Paul Allen Foundation, Meyer Memorial Trust, and Oregon Community Fund have contributed \$175,000. Key Bank will invest \$1.6 million dollars in tax credit purchases. The State of Oregon is providing \$100,000 in HOME funds along with \$65,000 in weatherization funds, \$100,000 in Alcohol and Drug Free Housing funds, technical assistance, and other financing support. Washington County is providing \$125,000 in Community Development Block Grants and nearly half a million dollars in HOME funds. CPAH has already contributed more than \$200,000 in fees and private donations over the last two years and will further contribute by deferring a percentage of its developer fees for as long as ten years.

The City of Tigard has supported the project on an ongoing basis by supporting its exemption from property taxes and through community policing support. All operating support reduces operating overhead and therefore directly reduces the rent charged to tenants.

This fee assistance program will be Tigard's primary contribution to this major rehabilitation project.

For more information about Community Partners for Affordable Housing and the Greenburg Oaks Apartments, please visit the CPAH website at: [www.cpahinc.org](http://www.cpahinc.org).

**3. Describe the fees and charges (including amounts per unit) that you are seeking City funds to offset.**

Fees and charges for the proposed work at Greenburg Oaks Apartments have been estimated based on the schedule of fees on the Tigard web site.

The table below summarizes planned permittable work only and not the entire cost of rehab.

	Quantity	Units	Total Cost
<b>Interior Work:</b>			
Electrical Upgrades	84	units	\$ 98,560
Replace Plumbing	84	units	\$ 74,400
Kitchen/Bath Vent. Upgrades	84	units	\$ 13,874
Kitchen Appliance Replacement:			
Dishwasher	8	EA	\$ 1,854
Garbage Disposal	2	EA	\$ 213
Range Hood	84	EA	\$ 5,880
Sink	84	EA	\$ 6,152
A/C Replacement	4	EA	\$ 6,500
Water Heater Replacement	8	EA	\$ 4,320
	<b>Quantity</b>	<b>Units</b>	<b>Total Cost</b>
<b>Building Exterior Work:</b>			
Deck Repairs	42	EA	\$ 138,800
Stair Tread/Handrail Replace	7	EA	\$ 45,000
<b>Site Improvements</b>			
Demo Parking Structures	2	EA	\$ 10,000
Repair Fire Damaged Paving	5,500	SF	\$ 10,000
Landscape Replacement	23,300	SF	\$ 78,956
Maint./Stor. Structures	600	SF	\$ 17,290
Recreational Structure (70x45)	3,150	SF	\$ 106,000
Site Lighting Improvements	1	AL	\$ 7,500
Sanitary Sewer Repairs	600	LF	\$ 54,000
Trash Compactor	1	EA	\$ 15,000
<b>Total Est. Costs</b>			<b>\$ 694,299</b>
Cont. 15%			\$ 104,145
Overhead			\$ 69,430
Fee			\$ 34,715
PL/PD			\$ 19,639
Bond			\$ 19,638
<b>Total</b>			<b>\$ 941,865</b>

Trade Fees	\$4,540	
Plan Review Fees	\$1,135	
State Surcharge	\$ 363	
<b>Total Trade Permit Fees</b>		<b>\$6,038</b>
Building Permits		
Fee for first \$600,000 of work	\$2,677	
Fee for each Add'l \$1,000	\$1,200	
<b>Total Building Permit Fee</b>		<b>\$3,877</b>

Total Estimated City of Tigard Fees	\$9,915
Total Estimated Fees per Unit (84 Units)	\$ 118

**4. Describe the status of all necessary land use, zoning, and building plan approvals.**

We are in the process of selecting a project architect who will be on contract by January 15, 2005. Selection of project general contractor will follow immediately after. The team will then review the planned scope and update an inventory of project needs, develop project drawings and initiate planning and building permit applications. Start of construction is planned for late May 2005 for 7 to 9 months.

At this point we are not aware of any work that will require zoning or planning variances.

**5. Indicate whether the project will require the relocation of any household or business.**

This project will be subject to the federal Uniform Relocation Act. It will be necessary to temporarily relocate tenants in each apartment to accommodate the extensive rehab work. However, no tenants will be permanently displaced by the work or by changes in the rent structure.

The project has budgeted \$85,000 for relocation administration and costs. We have had an initial relocation planning meeting with tenants and have begun work on a detailed relocation plan. This plan will be monitored by State and County officials.

**6. Request (express in whole dollar amounts only): [Note: the City budget amount available for all projects combined during FY 02-03 is \$10,000.]**

Dollar amount per unit	\$ 118
Number of units	\$ 84
Total request	\$ 9,915

Note: This is an estimated amount based on anticipated project scope. It is possible that scope changes and unforeseen conditions could significantly affect the final amount.

**7. Briefly describe how your project addresses each of the guidelines adopted by the Tigard City Council for considering fee assistance requests. Omit guidelines 7 & 9. [Use and insert additional page if needed.]**

1. Community Partners for Affordable Housing (CPAH) is a not for profit organization committed to providing high quality affordable housing in the Tigard area.
2. The planned work is rehabilitation to preserve existing affordable housing.
3. Greenburg Oaks contributes to efforts to de-concentrate poverty. CPAH's existing portfolio is distributed across its service area. New housing projects are selected that can fill existing unmet housing needs but which are geographically dispersed. By offering community-wide programs at the Greenburg Oaks community center, Greenburg Oaks offers lower income community members services that do not require their living on site.
4. Greenburg Oaks is in compliance with City housing policies and planning and zoning standards. The planned rehab project will improve the efficiency of the property and its ability to remain in compliance for an extended time.
5. Of the 143 units of housing CPAH operates in or near Tigard, all are affordable to households earning less than 50% of the area median income. Of the 138 households we currently house, 86.2% have incomes below 50% of the AMI and 67% earn below 40%. At Greenburg Oaks, 88.4% earn below 50%, 65.4% earn 40% or less and 38.5% earn less than 30% of the AMI.
6. We have covenanted with the State of Oregon that we will maintain Greenburg Oaks as affordable housing for a period of 60 years. This project will restart that covenant.
7. Greenburg Oaks is enrolled in the city Enhanced Safety Program. We facilitate an active Neighborhood Watch committee at the site and we coordinate closely with the City Police Department.
9. Technical requirements of other funds in this project require a timely start and completion. The project will take much less than two years to complete.
11. The estimated amount of the request is \$118 per unit, well below the maximum of \$500.

**8. Describe when you anticipate being able to use the requested funds.**

CPAH anticipates submitting an application for building permits in April 2005 with a target start date in late May. Because of the size of the permit fees, we would like to request reimbursement of the initial application fees as soon as possible so they can be available for other project uses. Any additional fees required in the course of the project will be submitted for reimbursement in consultation with city staff.

**9. Certification**

I hereby certify, by signature below, that the information contained in this application is true and correct to the best of my knowledge.

Date: 12/22/04

Signature: Martin Soloway

Typed Name and Title:

Martin Soloway  
Deputy Director, Housing

*Note: Submit one original of the completed application. The application deadline is **4:00 pm, December 24, 2004**, at Tigard City Hall. Applications transmitted by fax or email will not be accepted. Mail or deliver to:*

City of Tigard  
Attn: Duane Roberts  
13125 SW Hall Blvd.  
Tigard, OR 97223

*Should you have any questions about how to complete the application form, contact Duane Roberts; 503-718-2444; [duane@ci.tigard.or.us](mailto:duane@ci.tigard.or.us).*

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Plan And Code Amendment Incorporating Revised Federal Emergency Management Administration (FEMA) Requirements (CPA2004-00003/ZOA2004-00002).

PREPARED BY: Gary Pagenstecher DEPT HEAD OK [Signature] CITY MGR OK [Signature]

ISSUE BEFORE THE COUNCIL

Should the Council approve requested Comprehensive Plan and Zone Ordinance Amendments to be consistent with the National Flood Insurance Program (NFIP) requirements?

STAFF RECOMMENDATION

Staff recommends approving the requested Comprehensive Plan and Zone Ordinance Amendments by adopting the attached ordinance and text amendments (**Attachment 1**), as recommended by motion by the City of Tigard Planning Commission.

INFORMATION SUMMARY

On August 18<sup>th</sup>, 2004, the Federal Emergency Management Agency (FEMA) notified the City of the final flood elevation determination for the City of Tigard. FEMA requires the City, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt floodplain management regulations that meet NFIP standards. By determining the base flood elevation and assuring that structures are built in accordance with the NFIP regulations, local officials can assure that structures qualify for significantly lower flood insurance rates.

In order for the City to meet FEMA's February 18, 2005 effective date, and because scheduling conflicts with the January 11, 2005 City Council meeting precluded the City's 30-day period for ordinances to take effect, the proposed ordinance is written as an emergency ordinance to take effect immediately upon Council's action at its January 25, 2005 meeting.

On, December 20, 2004, the Tigard Planning Commission held a public hearing on the item. They recommended approval of the amendment by a majority vote in favor with one abstention (**Attachment 2**). Owners of property that are located within the floodplain have been sent individual notice in accordance with Measure 56. Notice procedures in the development code, including publication of notice in the paper and written notice to the appropriate agencies were met.

The proposal makes the following recommendations:

- ♦ Revise references to the updated FEMA Flood Impact Study (FIS) and Flood Insurance Rate Map (FIRM), effective February 18, 2005; and
- ♦ Add regulations for recreational vehicles located in the 100-year floodplain.

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VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Goals, Strategies, and/or Action Plan Items from "Tigard Beyond Tomorrow" do not apply.

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ATTACHMENT LIST

- Attachment 1:** Ordinance adopting the code amendments  
**Exhibit A:** Proposed Plan and Code text changes  
**Attachment 2:** 12/20/04 "Draft" Planning Commission meeting minutes  
**Attachment 3:** Staff Report to the Planning Commission

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FISCAL NOTES

N/A

CITY OF TIGARD, OREGON

ORDINANCE NO. 05-\_\_\_\_\_

AN ORDINANCE AMENDING THE LANGUAGE OF THE TIGARD COMPREHENSIVE PLAN, CHAPTER 3, NATURAL FEATURES AND OPEN SPACE, VOLUME II AND THE TIGARD COMMUNITY DEVELOPMENT CODE CHAPTER 18.775 BY REVISING REFERENCES TO THE UPDATED FEMA FLOOD INSURANCE STUDY (FIS) AND FLOOD INSURANCE RATE MAP (FIRM), EFFECTIVE FEBRUARY 18, 2005, AND REGULATING RECREATIONAL VEHICLES IN THE FLOODPLAIN (CPA2004-00003/ZOA2004-00002), AND DECLARING AN EMERGENCY.

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WHEREAS, the Federal Emergency Management Agency (FEMA) requires the Tigard City Council, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt floodplain management regulations that meet NFIP standards; and

WHEREAS, notice was provided to the Department of Land Conservation and Development 45 days prior to the first scheduled public hearing; and

WHEREAS, the Tigard Planning Commission held a public hearing on December 20, 2004 and recommended approval of the proposed amendments by motion with a majority vote in favor and one abstention; and

WHEREAS, the Tigard City Council determined that the proposed language adequately addressed concerns regarding the FEMA request; and

WHEREAS, the City Council has considered the applicable Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197; any federal or state statutes or regulations found applicable; any applicable Metro regulations; any applicable Comprehensive Plan Policies; and any applicable provisions of the City's implementing ordinances; and

WHEREAS, the City Council has found the following to be the only applicable review criteria: Community Development Code Chapters 18.380, 18.390 and 18.775; Comprehensive Plan Policies 1.1.1, 2.1.1, 2.1.2, and 3.2; The Metro 2040 Plan; and Statewide Planning Goals 1, 2, and 7; and

WHEREAS, the City Council has determined that the proposed plan and zone ordinance amendments are consistent with the applicable review criteria and that approving the request would be in the best interest of the City of Tigard.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1:       The specific text amendments attached as "**EXHIBIT A**" to this Ordinance are hereby adopted and approved by the City Council.

SECTION 2: Council finds adoption of this ordinance is necessary for the peace, health and safety of the City; therefore, this ordinance shall take effect immediately upon passage.

PASSED: By \_\_\_\_\_ vote of all Council members present after being read by number and title only, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Craig Dirksen, Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

CPA2004-00003/ZOA2004-00002

**PROPOSED AMENDMENTS TO THE COMPREHENSIVE PLAN AND THE TIGARD DEVELOPMENT CODE, INCORPORATING REVISED FEMA REQUIREMENTS.**

DELETIONS indicated by STRIKEOUT.

ADDITIONS indicated by **BOLD and UNDERLINE****PROPOSED COMPREHENSIVE PLAN TEXT CHANGES:****Chapter 3, NATURAL FEATURES AND OPEN SPACE****Section 3.2, FLOODPLAINS (as referenced in the text by asterisks)**

\*The Floodplain and Floodway, as defined by the Flood Insurance Study for the City of Tigard dated September 1, 1984 **effective February 18, 2005.**

**PROPOSED DEVELOPMENT CODE TEXT CHANGES:****Chapter 18.775 SENSITIVE LANDS****Section 18.775.010 Purpose**

- B. Implement comprehensive plan and floodplain management program. The regulations of this chapter are intended to implement the comprehensive plan and the city's flood plain management program as required by the National Flood Insurance Program, and help to preserve natural sensitive land areas from encroaching use and to maintain the ~~September 1981 and, where revised, the March 20, 2000,~~ **February 18, 2005** zero-foot rise floodway elevation.

**18.775.040 General Provisions for Floodplain Areas**

- B. Special flood hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled The Flood Insurance Study of the City of Tigard, dated September 1, 1984 **effective February 18, 2005**, with accompanying Flood Insurance **Rate** Maps **effective February 18, 2005** (updated February 1984) is hereby adopted by reference and declared to be a part of this chapter, ~~except where revised by the Fanno Creek Watershed Flood Insurance Restudy, Final 100 Year Floodplain, Zero Rise Floodway, and Base Map Elevations, City of Tigard, March 20, 2000, which also is hereby adopted by reference and declared to be part of this chapter.~~ This Flood Insurance Study is on file at the Tigard Civic Center.

**O. Recreational Vehicles. Recreational Vehicles placed on sites within Zones A1-A30, AH, and AE on the community's FIRM either:**

- (i) **Be on the site for fewer than 180 consecutive days.**
- (ii) **Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or**
- (iii) **Meet the requirements of E, F, I and L above and the elevation and anchoring requirements for manufactured homes.**

**CITY OF TIGARD  
PLANNING COMMISSION  
Meeting Minutes  
December 20, 2004**

DRAFT

**1. CALL TO ORDER**

Vice-President Munro called the meeting to order at 7:00 p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

**2. ROLL CALL**

Commissioners Present: Vice-President Munro; Commissioners Anderson, Buehner, Caffall, Haack, Inman, Meads, and Sutton

Commissioners Absent: President Padgett

Staff Present: Dick Bewersdorff, Planning Manager; Gary Pagenstecher, Associate Planner; Gus Duenas, City Engineer; Jerree Gaynor, Planning Commission Secretary

**3. PLANNING COMMISSION COMMUNICATIONS**

The next meetings for the Commission are scheduled for January 24<sup>th</sup> and February 7<sup>th</sup>.

**4. PUBLIC HEARING**

**4.1 COMPREHENSIVE PLAN AMENDMENT (CPA) 2004-00003/ZONE ORDINANCE AMENDMENT (ZOA) 2004-00002 PLAN & CODE AMENDMENT INCORPORATING REVISED FEMA REQUIREMENTS**

**REQUEST:** The Federal Emergency Management Agency (FEMA) has required the City, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt floodplain management regulations that meet NFIP standards. Therefore, to meet these standards, the City proposes to amend Chapter 3, Natural Features and Open Space, Volume II of the Comprehensive Plan and the Sensitive Lands chapter (18.775) of the Tigard Development Code by revising references to the updated FEMA Flood Impact Study (FIS) and Flood Insurance Rate Map (FIRM), effective February 18, 2005, and regulating recreational vehicles located in the 100-year floodplain. **LOCATION:** The 100-year floodplain within the City of Tigard's incorporated boundary. **COMPREHENSIVE PLAN DESIGNATION:** All designations within the floodplain. **ZONE:** All zones within the floodplain. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.380, 18.390 and 18.775; Comprehensive Plan Policies 1.1.1, 2.1.1, 2.1.2 and 3.2; the Metro 2040 Plan; and Statewide Planning Goals 1, 5 and 7.

**STAFF REPORT**

Associate Planner Gary Pagenstecher presented the staff report on behalf of the

City. He read the relative code criteria into the record. He reported that the scope of the amendment is quite restrictive; it is primarily to make our code consistent with revised flood insurance rate maps and the flood insurance study which has just been published by FEMA. Additional regulations have been added for recreational vehicles used for human habitation (campers, RVs, etc.) that are stored in the 100 year floodplain. They must be on-site for fewer than 180 days and be licensed and road ready or they have to meet certain requirements, including elevation and anchoring requirements, that apply to manufactured homes.

Pagenstecher advised that the Flood Insurance Rate Map (FIRM) will be revised, effective February 18, 2005 (Exhibit A). The old City of Tigard FEMA Flood Insurance Rate Map, dated 1981, was also shown (Exhibit B).

Pagenstecher explained that FEMA requires the City, as a condition of eligibility in the National Flood Insurance Program, to adopt floodplain management regulations that meet their standards. He noted that all affected property owners received notice of the public hearing.

Commissioner Meads asked if the effect of development in the floodplain (e.g., the increase in impervious area and how it could affect the range of the floodplain) was incorporated into the study and the map. Pagenstecher said there is an elevated floodplain level now as opposed to 20 years ago. This may be due to increased development or it may be due to raising the base flood elevations to higher levels.

Staff advised that the City code regulates recreational vehicles that are not road ready and have to be secured to the land – they are not allowed as a housing unit in our code.

Vice-President Munro asked about recommendations from the Department of Land Conservation and Development (DLCD). Staff answered that both FEMA and DLCD staff reviewed the draft language and didn't take issue with it. A DLCD staff person did think the definitions could be more explicit.

#### **PUBLIC TESTIMONY**

Coralyn Chaney, 11730 SW Tiedeman, Tigard 97223, asked for clarification about her property classification. She asked if it was zoned A, B, or C. Staff advised that FEMA has changed their classifications. In Tigard, there are A and AE zones. For the AE zones, the base elevations have been determined. For the A zones, they know it's a floodplain but the analysis to determine the base elevation has not been done.

Pagenstecher also noted that the map included with the public hearing notice identifies properties that have at least some portion of the property in the floodplain. Regulations for determining insurance rates are different from City or CWS regulations that may apply to properties. These may be more restrictive

than what FEMA requires. He noted that development is not prohibited in the floodplains unless defined by FEMA regulations. For example, the City does not allow cut and fill in residential zones. Staff advised that the new FEMA map provides more detailed information. To comply with FEMA requirements and to make people eligible for insurance, the City has to adopt the new FEMA standards.

Sue Beilke, 11755 SW 114<sup>th</sup> Place, Tigard 97223, had some questions for the Commission. She asked if the Commission would be making a recommendation to Council tonight. Staff answered that the Commission would make that decision. She would like more time to go over the map and make corrections. If the Commission decides to make a recommendation tonight, she asked they include a provision for citizens to be able to make corrections to the map. Staff informed her that the map was produced by FEMA, so she would have to go to FEMA to request revisions.

Randal Nelson Sr., 11495 SW Hazelwood Loop, Tigard 97223, testified that every time he refinances house, he has to deal with FEMA. He stated that the greenbelt behind his house is in floodplain, but his house is not. He has pictures showing the water level during the 1996 flood. His house is higher than homes in his neighborhood that are not shown as being in the floodplain. He noticed that the new map still catches the corner of his property. The Commission suggested that he have his property surveyed to get accurate elevations.

Adam Zwerling, 10325 SW Meadow Street, Tigard 97223, stated that his house has flooded twice since he bought it. The old map shows his property in the floodplain, but the new map shows that it is not in the floodplain. The new floodplain lines are one property away from him. He wonders if he could get FEMA grant money if his house flooded. The Commission suggested having his property surveyed (FEMA floodplain elevation certification) to establish where the floodplain line is actually located.

#### **PUBLIC HEARING CLOSED**

It was moved and seconded to send a recommendation for approval of Comprehensive Plan Amendment (CPA) 2004-00003/Zone Ordinance Amendment (ZOA) 2004-00002 Plan & Code Amendment Incorporating Revised FEMA Requirements, including the staff report and the testimony received this evening. The motion was approved by a vote of 7-0 with one abstention. Commissioner Caffall abstained.

#### **5. CIP UPDATE**

City Engineer Gus Duenas gave a PowerPoint presentation update of the current 04/05 Capital Improvement Program projects (see exhibit C). He noted that he would be back to the Commission in February for discussion and input to next year's projects.

**6. OTHER BUSINESS**

The Commission received committee reports:

- Tree Board – nothing to report.
- Park and Recreation Board – there was discussion at the last meeting about excessive drinking in the parks.
- Planned Development Code Review Committee – the committee has drafted language for the purpose of the PD code.
- Transportation Financial Strategy Task Force – the task force has been discussing potential revenue sources and is thinking of a local gas tax proposal that would be tied to specific projects.
- Downtown Task Force – the task force has held 24 outreach meetings and had a public workshop on December 4<sup>th</sup>. At their next meeting, they will be looking at the ideas they received. They will be going back to the community in February and are forming subcommittees.

**7. ADJOURNMENT**

The meeting adjourned at 8:21 p.m.

---

Jerree Gaynor, Planning Commission Secretary

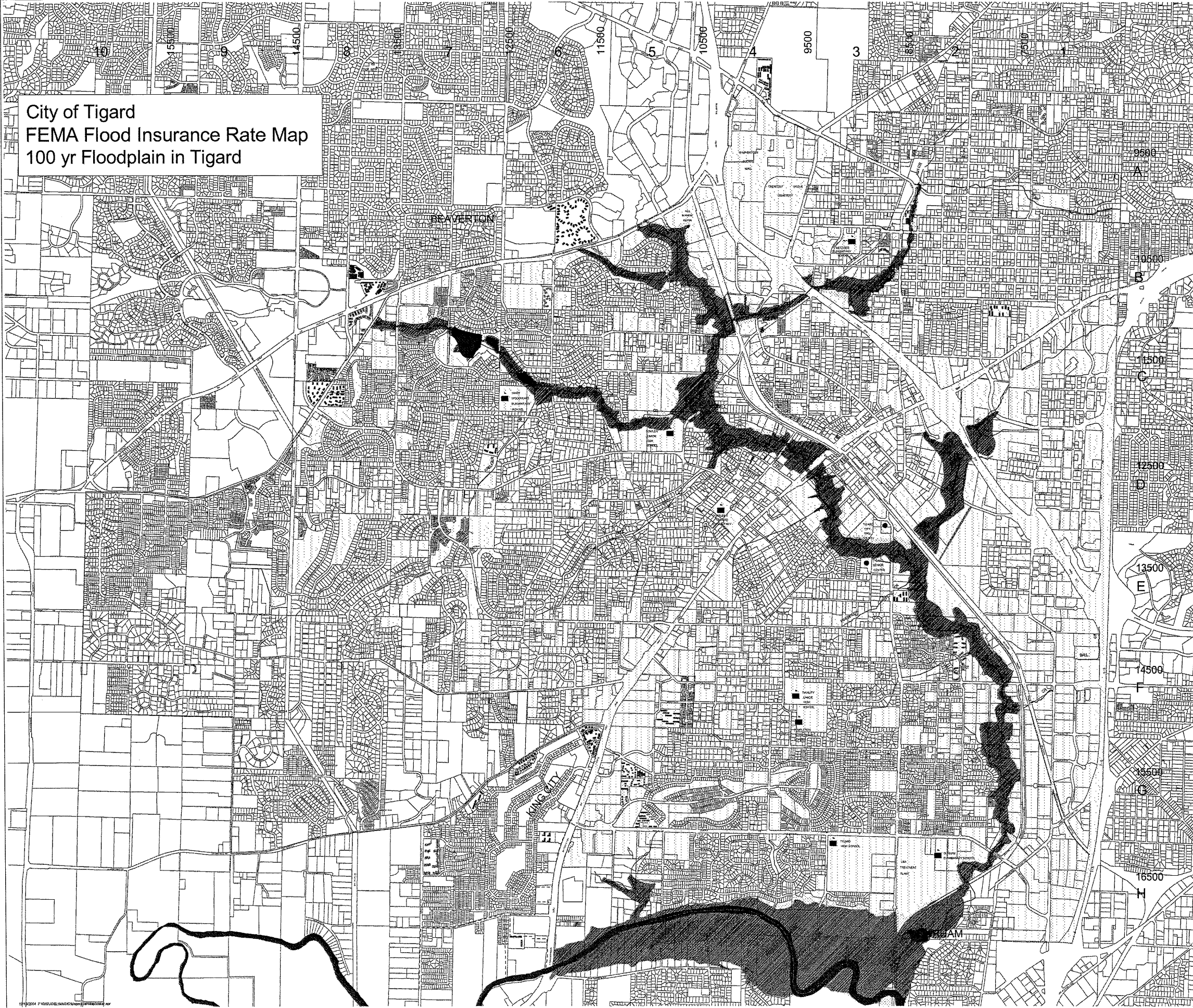
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ATTEST: Vice-President Judy Munro

# Planning Commission – 12/20/04 Meeting

## Exhibit A

**LARGE EXHIBITS MAY BE REVIEWED AT  
TIGARD CITY HALL UPON REQUEST.**



City of Tigard

Geographic Information System

Long Range Planning Division,  
Community Development Department

Legend

Tigard City Limits

Area of Interest

Urban Service Area

King City

H2O Surface Contour

Streams

FEMA 100 yr Floodplain (Preliminary)

1981 FEMA 100 yr Floodplain

Rivers

This map is for reference only.  
Please consult hardcopy FEMA FLOODWAY maps or  
FEMA FIRM maps for official site determination.

This map is a static representation of conditions at the time  
of printing, 12/15/2004. For more up to the minute  
information, please consult the City of Tigard's MAGIC-GIS  
application.

SOURCES:  
Parcel Boundaries:  
Washington County Dept. of Taxation & Assessment  
Political Boundaries:  
City of Tigard  
FEMA Floodplains:  
US Federal Emergency Management Agency

0 800 1600 Feet

1 inch = 800 feet

This map was derived from several databases. The City  
cannot accept responsibility for any errors. Therefore,  
there are no warranties for this product. However,  
notification of errors would be appreciated.

13125 SW 11th Blvd.  
Tigard, OR 97223  
(503) 525-1171  
<http://www.cityof Tigard.org/magic-gis>

City of Tigard

Agenda Item: 4.1  
Hearing Date: December 20, 2004 Time: 7:00 PM

**STAFF REPORT TO THE  
PLANNING COMMISSION  
FOR THE CITY OF TIGARD, OREGON**



**SECTION I. APPLICATION SUMMARY**

**CASE NAME:** PLAN AND CODE AMENDMENT INCORPORATING REVISED  
FEDERAL EMERGENCY MANAGEMENT ADMINISTRATION (FEMA)  
REQUIREMENTS.

**CASE NOS.:** **Comprehensive Plan Amendment (CPA) 2004-00003**  
**Zone Ordinance Amendment (ZOA) 2004-00002**

**PROPOSAL:** The City proposes to amend Chapter 3, Natural Features and Open Space, Volume II of the Comprehensive Plan and the Sensitive Lands chapter (18.775) of the Tigard Development Code by revising references to the updated FEMA Flood Impact Study (FIS) and Flood Insurance Rate Map (FIRM), effective February 18, 2005, and regulating recreational vehicles located in the 100-year floodplain.

**APPLICANT:** City of Tigard  
13125 SW Hall Boulevard  
Tigard, OR 97223

**OWNER:** N/A

**LOCATION:** 100-Year Floodplain within the City of Tigard's incorporated boundary.

**COMP PLAN/  
ZONING  
DESIGNATION** All designations and zones within the floodplain.

**APPLICABLE  
REVIEW  
CRITERIA:** Community Development Code Chapters 18.380, 18.390 and 18.775; Comprehensive Plan Policies 1.1.1, 2.1.1, 2.1.2, and 3.2; The Metro 2040 Plan; and Statewide Planning Goals 1, 2, and 7.

**SECTION II. STAFF RECOMMENDATION**

Staff recommends that the Planning Commission recommend the City Council adopt revised references to the updated National Flood Insurance Program Flood Insurance Study and Flood Insurance Rate Maps for the City of Tigard effective February 18, 2005, and amend the Sensitive Lands requirements in the Tigard Development Code to regulate recreational vehicles located in the 100-year floodplain.

### **SECTION III. BACKGROUND INFORMATION**

On August 18<sup>th</sup>, 2004, the Federal Emergency Management Agency (FEMA) notified the City of the final flood elevation determination for the City of Tigard. FEMA requires the City, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt floodplain management regulations that meet NFIP standards. By determining the base flood elevation, and assuring that structures are built in accordance with the NFIP regulations through the use of the elevation or flood-proofing information, local officials can assure that structures qualify for significantly lower flood insurance rates than policies rated with the base flood elevation undetermined.

In 1982 FEMA issued a Flood Impact Study (FIS) and Flood Insurance Rate Maps (FIRM) that identified the Special Flood Hazard Areas, areas subject to inundation by the base (1 percent annual chance) flood in the Tigard area. As a result of a recent reevaluation of flood hazards FEMA provided the City with preliminary copies of the FIS and FIRM that identify existing flood hazard in the Tigard area, including Base Flood Elevations (BFEs). These proposed BFEs were published in the Tigard Times on April 15 and April 22, 2004 and in the Federal Register at 67 FR 44634 on July 7, 2004. No appeals were made of the proposed BFEs. As such, the BFEs are considered final and will become effective February 18, 2005.

Pursuant to Section 1361 of the National Flood Insurance Act of 1968, FEMA requires the City to adopt floodplain management regulations that meet the standards of Paragraph 60.3(d) of the NFIP by the effective date for the City's continued eligibility in the National Flood Insurance Program. The City's current development code meets or exceeds all of these standards with few exceptions. If adopted, the proposed attached amendments would satisfy the FEMA requirements and retain the City's eligibility to participate in the NFIP.

To meet these standards, the City proposes to amend Chapter 3, Natural Features and Open Space, Volume II of the Comprehensive Plan and the Sensitive Lands chapter (18.775) of the Tigard Development Code. The proposed amendments revise references to the updated FEMA Flood Impact Study (FIS) and Flood Insurance Rate Maps (FIRM), effective February 18, 2005, and add language regulating recreational vehicles located in the 100-year floodplain (See attached Exhibit A – Proposed Plan and Code Text Changes).

### **SECTION IV. APPLICABLE CRITERIA AND FINDINGS**

**Chapter 18.380 states that legislative text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.390.060G.**

**Chapter 18.390.060G states that the recommendation by the Commission and the decision by the Council shall be based on consideration of the following factors:**

#### **THE STATEWIDE PLANNING GOALS AND GUIDELINES ADOPTED UNDER OREGON REVISED STATUTES CHAPTER 197;**

Notice was provided to DLCD 45 days prior to the first scheduled public hearing as required. In addition, the Tigard Development Code and Comprehensive Plan have been acknowledged by DLCD. The following Statewide Planning Goals are applicable to this proposal:

##### **Statewide Planning Goal 1 – Citizen Involvement:**

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and for changes to the Comprehensive Plan and implementing documents. This goal has been met by complying with the Tigard Development Code notice requirements set forth in Chapter 18.390. Notice has been published in the Tigard Times Newspaper prior to the public hearing. Notice was sent to 362 property owners representing 506 affected properties. Two Public Hearings are being held (one before the Planning Commission and the second before the City Council) in which public input is welcome.

## **Statewide Planning Goal 2 – Land Use Planning:**

This goal outlines the land use planning process and policy framework. The Comprehensive Plan was acknowledged by DLCD as being consistent with the statewide planning goals. The Development Code implements the Comprehensive Plan. The Development Code establishes a process for and policies to review changes to the Development Code consistent with Goal 2. The City's plan provides analysis and policies with which to evaluate a request for amending the Code consistent with Goal 2.

## **Statewide Planning Goal 7 – Areas Subject to Natural Hazards:**

This goal is designed to protect people and property from natural hazards, including flooding. It requires that new hazard inventory information provided by federal agencies be reviewed by DLCD in conjunction with local government representatives. Local governments will be deemed to comply with Goal 7 for riverine flood hazards by adopting and implementing local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements. The proposed amendments would meet the minimum NFIP requirements.

## **APPLICABLE FEDERAL AND STATE STATUTES**

### **Title 44, Chapter I, Part 60, Section 60.3 Code of Federal Regulation (CFR).**

This section includes federal floodplain management criteria for flood-prone areas. Communities adopting these criteria are eligible for participation in the National Flood Insurance Program. The City's Development Code currently incorporates most of these criteria. With adoption of the proposed amendments the code would meet the criteria in Section 60.3 CFR.

## **APPLICABLE METRO REGULATIONS:**

### **Title 3: Urban Growth Management Functional Plan (Metro code 3.07.300)**

The intent of Title 3 is to protect the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas. Cities can comply with the provisions of this title by amending their comprehensive plans and implementing ordinances to adopt all or part of the Title 3 Model Ordinance or code language that substantially complies with the performance standards and the intent of the title. Cities must also adopt either the Metro Water Quality and Flood Management Area Map or a map which substantially complies with the Metro map.

The City complies with Metro's Title 3 requirements through reference to Clean Water Services' (CWS) standards which are implemented through the Tigard Development Code. Metro's Flood Management Area Map for the Fanno Creek watershed is based on the data generated by CWS, the City of Tigard, City of Beaverton, and Washington County during development of the Fanno Creek Watershed Plan. This information was submitted to FEMA in 2000 and is the basis for the current Flood Insurance Rate Map, effective February 2005. Therefore, adoption of the proposed reference to the revised FEMA FIRM will be consistent with Title 3 map requirements.

## **APPLICABLE COMPREHENSIVE PLAN POLICIES:**

### **Comprehensive Plan Policy 1.1.1: General Policies**

This policy states that all future legislative changes shall be consistent with the Statewide Planning Goals and the Regional Plan adopted by Metro. As indicated above under the individual Statewide and Regional Plan goals applicable to this proposed amendment, the amendment is consistent with the Statewide Goals and the Regional Plan.

## **Comprehensive Plan Policies 2.1.1, 2.1.2, and 2.1.3.: Citizen Involvement**

These policies state that the City shall maintain an ongoing citizen involvement program, provide opportunities for citizen involvement appropriate to the scale of the planning effort and that information on land use planning issues shall be available in understandable form for all interested citizens.

This policy is satisfied because notice of the proposed amendment was mailed to all interested parties and 362 notices were mailed to owners of property located in the floodplain that may be affected by the proposed amendment. In addition, notice was published in the Tigard Times of the Planning Commission public hearing and notice will be published again prior to the City Council public hearing. Public input has been invited in the notice. The written notices were written in plain understandable form, and included phone numbers and a contact person for anyone who may have questions.

## **Comprehensive Plan Policies 3: Natural Features and Open Space,**

This chapter addresses a broad range of topics all having to do with the natural resources located within the Tigard Urban Planning Area. Section 3.2, Floodplains, refers to the Floodplain and Floodway as defined by the Flood Insurance Study for the City of Tigard dated September 1, 1981. The proposed amendment to the Tigard Comprehensive Plan would update this reference to the revised FIS and FIRM, effective February 18, 2005.

## **APPLICABLE PROVISION OF THE CITY'S IMPLEMENTING ORDINANCES.**

### **Tigard Development Code Section 18.775: Sensitive Lands**

The regulations of this chapter are intended to implement the comprehensive plan and the City's floodplain management program as required by the National Flood Insurance Program, and help to preserve natural sensitive land areas from encroaching use and to maintain the zero-foot rise floodway elevation.

Section 18.775.040.B addresses the areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled The Flood Insurance Study of the City of Tigard, with accompanying Flood Insurance Rate Maps which are adopted by reference and declared to be a part of this chapter. The section also includes land use regulations for development within the floodplain. With adoption of the proposed amendments to this section of the code, the code will effectively implement the comprehensive plan and the City's flood management program as required by the NFIP (See attached Exhibit A – Proposed Development Code Text Changes).

### **Tigard Development Code Chapter 18.380: Zoning Map and Text Amendments**

This chapter sets forth the standards and process governing legislative and quasi-judicial amendments to this title and zoning district map. Legislative zoning map and text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.390.060G. Therefore, the proposed text amendments to the Tigard Development Code will be reviewed under the Type IV legislative procedure as set forth in the chapter.

### **Tigard Development Code Chapter 18.390: Decision-Making Procedures**

This chapter establishes standard decision-making procedures for reviewing applications. The amendment under consideration will be reviewed under the Type IV legislative procedure as detailed in the chapter. Section 18.390.060G states that the recommendation by the Commission and the decision by the Council shall be based on consideration of the following factors (reviewed above), including: 1) Statewide Planning Goals and Guidelines, 2) applicable federal or state statutes or regulations, 3) applicable METRO regulations, 4) applicable comprehensive plan policies, and 5) applicable provisions of the City's implementing ordinances.

## SECTION V. ADDITIONAL CITY STAFF COMMENTS

The City of Tigard's Long Range Planning Division, Building Division, Community Development Department, and Public Works have had an opportunity to review this proposal and have no objections.

## SECTION VI. OUTSIDE AGENCY COMMENTS

Metro, Oregon Department of Environmental Quality, Oregon Department of Fish and Wildlife, Oregon Department of Transportation, Washington County Department of Land Use and Transportation, division of State Lands, and US Army Corps of Engineers were notified of the proposed amendments and did not respond.

The Oregon Department of Land Conservation and Development commented on the proposal as follows:

*DLCD Staff reviewed Tigard's existing ordinance to see if any NFIP-related issues (beyond the reference to the new maps) needed to be addressed in the ordinance update.*

*DLCD Staff agreed with the City's plans to update 18.775.040 (B) to reference the current flood insurance study and maps.*

Response: The proposed amendments include references to updated FIS and FIRM, effective February 18, 2005.

*DLCD Staff suggested the City add in the NFIP standards for recreational vehicles required per 44 CFR 60.3(c)(14).*

Response: The proposed amendments include standards for recreational vehicles.

*DLCD Staff suggested the City may want to clarify that section 18.775.040(L), for residential construction in the floodplain, applies in special flood hazard areas where base flood elevation data has been provided.*

Response: Subsection L clearly applies in special flood hazard areas as indicated by the section title: General Provisions for Floodplain Areas, and specifically identified in Subsection B, Special Flood Hazards, which includes references to the FIS and FIRM, effective Feb, 18, 2004 that provide base elevation data. Therefore, staff believes clarification is not warranted.

*DLCD Staff suggested the City update Chapter 18.120 – Definitions, to address the following issues (DLCD staff noted that definitions are not required by FEMA as among those standards required to retain eligibility in the National Flood Insurance Program):*

*---The city defines basement (definition #25), but the definition does not match the NFIP definition for basement. This could result in incorrect application of the NFIP standards found in 18.775. I strongly recommend that the city add the NFIP definition of basement into the flood-related definitions found at 71. "Basement" - any area of a building having its floor subgrade (below ground level) on all sides.*

Response: The City's definition of basement involves definitions of "basement", "story", and "story, first":

#25. "Basement" - Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as first story as defined in this section.

#128. "Story" - That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than six feet above grade as defined in this section for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined in this section at any point, such basement or unused under-floor space shall be considered as a story.

#129. "Story, first" - The lowest story in a building which qualifies as a story, as defined in this section, except that a floor level in a building having only one floor shall be classified as a first story, provided such floor level is not more than four feet below grade, as defined in this section, for more than 50 percent of the total perimeter, or more than eight feet below grade, as defined in this section, at any point.

Staff agrees the City's definition of "basement" does not match NFIP's definition, but believes the difference would be unlikely to result in an incorrect application of the NFIP standards. As applied in the City's floodplain regulations, it is a building's "lowest floor, including basement" that must be elevated above the base flood elevation, which can only be construed to not allow any floors, basement or otherwise, below that level. This was confirmed by discussion with the City Building Official. Therefore, staff believes no changes are warranted.

*---The city should also clarify which definition of development it uses for floodplain purposes. Chapter 18.120 has a definition (#56) and Chapter 18.775 has a definition of sorts (18.775.020(A)), but this one may not apply to the floodplain? The language in 18.775.020(A) is very similar to the NFIP definition but is under a section about stormwater connection permits. The NFIP defines "development" as - any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations located within the area of special flood hazard.*

Response: The City defines "development" in Chapters 18.120 and 18.775 are as follows:

### **18.120.030 Meaning of Specific Words and Terms**

A. For additional words and terms, also see Use Classifications (Chapter 18.130); Mixed Solid Waste and Recyclable Storage (Chapter 18.755); Sensitive Lands (Chapter 18.775); Signs (Chapter 18.780); Tree Removal (Chapter 18.790); and Wireless Communication Facilities (Chapter 18.798). As used in this title, the following words and phrases mean:

#56. "Development" - 1) A building or mining operation; 2) a material change in the use or appearance of a structure or land; or 3) division of land into two or more parcels, including partitions and subdivisions as provided in Oregon Revised Statutes 92.

### **18.775.020 Applicability of Uses: Permitted, Prohibited, and Nonconforming**

A. CWS Stormwater Connection Permit. All proposed development must obtain a Stormwater Connection Permit from CWS pursuant to its Design and Construction Standards. As used in this chapter, the meaning of the word development shall be as defined in the CWS Design and Construction Standards: All human-induced changes to improved or unimproved real property including:

1. Construction of structures requiring a building permit, if such structures are external to existing structures;
2. Land division;
3. Drilling;
4. Site alterations resulting from surface mining or dredging;
5. Grading;
6. Construction of earthen berms;
7. Paving;
8. Excavation; or

9. Clearing when it results in the removal of trees or vegetation which would require a permit from the local jurisdiction or an Oregon Department of Forestry tree removal permit.
10. The following activities are not included in the definition of development:
  - a. Farming activities when conducted in accordance with accepted farming practices as defined in ORS 30.930 and under a Senate Bill 1010 water quality management plan;
  - b. Construction, reconstruction, or modification of a single family residence on an existing lot of record within a subdivision that was approved by the City or County after September 9, 1995 (from ORS 92.040(2)); and
  - c. Any development activity for which land use approvals have been issued pursuant to a land use application submitted to the City or County on or before February 4, 2000, and deemed complete or before March 15, 2000.

The meaning as defined in Chapter 18.120 applies generally to Title 18. The meaning as defined in Chapter 18.775 applies explicitly to that chapter and specifically to the floodplain. Therefore, the City uses the latter definition with respect to floodplains.

The general meaning in both the City's and NFIP's definitions is substantially the same. However, the NFIP definition is generally more inclusive, while the City's definition includes several exemptions. Because the definitions are similar, staff believes no changes are warranted.

*—The city has a definition for recreational vehicle (#117). This definition is different than the NFIP definition. The city should consider whether its existing definition needs to be updated. The NFIP definition is: (a) built on a single chassis, (b) 400 square feet or less when measured at the largest horizontal projection, (c) designed to be self-propelled or permanently towable by a light duty truck, and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.*

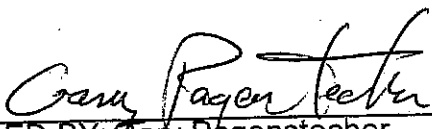
Response: The City defines "recreational vehicle" as follows:

**18.120.030. #117:** "Recreational vehicles" - A vacation trailer or other unit, with or without motor power, which is designed for human occupancy and to be used temporarily for recreation or emergency purposes. The unit shall be identified as a recreational vehicle by the manufacturer.

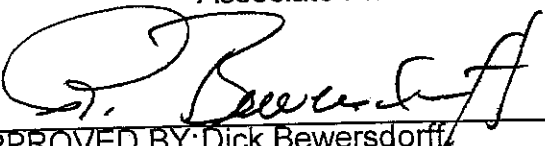
Although the City's definition does not specify type of chassis or limit the size, it does address mobility and primary use of a recreational vehicle. The City's definition is generally more inclusive than the NFIP definition. Therefore, Staff believes the City's definition is substantially similar and does not warrant changing.

#### ATTACHMENT:

#### **EXHIBIT A: PROPOSED AMENDMENTS TO THE COMPREHENSIVE PLAN AND THE TIGARD DEVELOPMENT CODE, INCORPORATING REVISED FEMA REQUIREMENTS.**

  
PREPARED BY: Gary Pagenstecher  
Associate Planner

December 3, 2004  
DATE

  
APPROVED BY: Dick Bewersdorff  
Planning Manager

December 3, 2004  
DATE

AGENDA ITEM # 9  
FOR AGENDA OF January 25, 2005

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Formation of Sanitary Sewer Reimbursement District No. 32 (SW Fern Street)  
PREPARED BY: G. Berry <sup>JSB</sup> DEPT HEAD OK af Quenna CITY MGR OK WAM

ISSUE BEFORE THE COUNCIL

Formation of a sewer reimbursement district to construct a sanitary sewer project as part of the Neighborhood Sewer Extension Program.

STAFF RECOMMENDATION

Approval of the attached Resolution forming the Reimbursement District.

INFORMATION SUMMARY

The proposed project would provide sewer service to five lots along SW Fern Street between SW 135<sup>th</sup> and 138<sup>th</sup> Avenues. Through the City's Neighborhood Sewer Extension Program, the City would install public sewers to each lot within the Reimbursement District and the owners would reimburse the City for a fair share of the cost of the public sewer at the time of connection to the sewer. In addition, each owner would be required to pay a connection fee, currently \$2,535, before connecting to the line and would be responsible for disconnecting the existing septic system according to County rules and any other plumbing modifications necessary to connect to the public line. Each owner has been notified of the hearing by mail. The notice, mailing list and additional details are included in the City Engineer's Report attached as Exhibit A to the proposed resolution.

On May 25, 2004, the City Council approved an agreement with Washington County to include the sewer as part of a project to improve SW Walnut Street between SW 121<sup>st</sup> and 135<sup>th</sup> Avenues through the Major Streets Transportation Improvement Program. Another resolution to finalize the formation of the Reimbursement District, with cost adjustments, will be submitted for Council action after construction is completed and actual construction costs are determined.

OTHER ALTERNATIVES CONSIDERED

None.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Not applicable.

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### ATTACHMENT LIST

1. Proposed Resolution
  - Exhibit A, City Engineer's Report
  - Exhibit B, Map
2. Vicinity Map
3. Communication Plan
4. Notice to Owners
  - Mailing List
5. Resolutions Nos. 01-46, 03-55
6. Amendment to the Intergovernmental Agreement with Washington County for the Improvement of Walnut Street through the Major Streets Improvement Program

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### FISCAL NOTES

Funding is by unrestricted sanitary sewer funds.

\\eng\2004-2005 fy\cpl\walnut street - phase 3 (by county)\reimbursement district 32\ern street\city council\formation\1-25-05 reim dist 32 eis.doc

## RESOLUTION NO. 05-\_\_\_\_\_

## A RESOLUTION ESTABLISHING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 32 (SW FERN STREET)

WHEREAS, the City has initiated the Neighborhood Sewer Extension Program to extend public sewers and recover costs through Reimbursement Districts in accordance with TMC Chapter 13.09; and

WHEREAS, these property owners have been notified of a public hearing in accordance with TMC 13.09.060 and a public hearing was conducted in accordance with TMC 13.09.050; and

WHEREAS, the City Engineer has submitted a report describing the improvements, the area to be included in the Reimbursement District, the estimated costs, a method for spreading the cost among the parcels within the District, and a recommendation for an annual fee adjustment; and

WHEREAS, the City Council has determined that the formation of a Reimbursement District as recommended by the City Engineer is appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

- SECTION 1      The City Engineer's report titled "Sanitary Sewer Reimbursement District No. 32", attached hereto as Exhibit A, is hereby approved.
- SECTION 2      A Reimbursement District is hereby established in accordance with TMC Chapter 13.09. The District shall be the area shown and described on Exhibit B. The District shall be known as "Sanitary Sewer Reimbursement District No. 32, SW Fern Street."
- SECTION 3      Payment of the reimbursement fee as shown in Exhibit A is a precondition of receiving City permits applicable to development of each parcel within the Reimbursement District as provided for in TMC 13.09.110.
- SECTION 4      An annual fee adjustment, at a rate recommended by the Finance Director, shall be applied to the Reimbursement Fee.
- SECTION 5      The City Recorder shall cause a copy of this resolution to be filed in the office of the County Recorder and shall mail a copy of this resolution to all affected property owners at their last known address, in accordance with TMC 13.09.090.
- SECTION 6      This resolution is effective upon passage.

PASSED:      This \_\_\_\_\_ day of \_\_\_\_\_ 2005.

\_\_\_\_\_  
Mayor - City of Tigard

ATTEST:

\_\_\_\_\_  
City Recorder - City of Tigard

RESOLUTION NO. 05-

## **Exhibit A**

### **City Engineer's Report Sanitary Sewer Reimbursement District No. 32 (SW Fern Street)**

#### Background

This project will be constructed and funded under the City of Tigard Neighborhood Sewer Extension Program (NSEP). Under the program the City of Tigard would install public sewers to each lot within the project area. At the time the property owner connects to the sewer, the owner would pay a connection fee, currently \$2,535, and reimburse the City for a fair share of the cost of the public sewer. There is no requirement to connect to the sewer or pay any fee until connection is made. In addition, property owners are responsible for disconnecting their existing septic system according to Washington County rules and for any other modifications necessary to connect to the public sewer.

#### Project Area - Zone of Benefit

An existing line in Fern Street will be extended east to service five lots as shown on Exhibit Map B.

#### Cost

The estimated cost for the sanitary sewer construction to provide service to the five lots is \$58,152. Engineering and inspection fees amount to \$7,851 (13.5%) as defined in TMC 13.09.040(1). The estimated total project cost is \$66,003. This is the estimated amount that should be reimbursed to the sanitary sewer fund as properties connect to the sewer and pay their fair share of the total amount. However, the actual amount that each property owner pays is subject to the City's incentive program for early connections.

In addition to sharing the cost of the public sewer line, each property owner will be required to pay an additional \$2,535 connection and inspection fee when connection to the public line is made. All owners will be responsible for all plumbing costs required for work done on private property.

#### Reimbursement Rate

All properties are zoned R-4.5 but vary in lot size from 21,000 to 43,000 square feet as can be seen in the following list of lots. Therefore, it is recommended that the total cost of this portion of the project be divided among the five properties proportional to the square footage of each property.

Other reimbursement methods include dividing the cost equally among the owners or by the length of frontage of each property. These methods are not recommended

because there is no correlation between these methods and the cost of providing service to each lot or the benefit to each lot.

13620 SW Fern Street is a flag lot with an 8,003 square foot driveway which does not benefit from the sewer. This driveway area was deducted from the total lot area to determine the estimated cost for this lot.

**Each property owner's estimated fair share of the public sewer line is \$0.35 per square foot of the lot served. Each owner's fair share would be limited to \$6,000, to the extent that it does not exceed \$15,000, for connections completed within three years of City Council approval of the final City Engineer's Report following construction in accordance with Resolution 01-46 (attached). In addition to paying for the first \$6,000, owners will remain responsible for paying all actual costs that exceed \$15,000. Upon request, payment of costs that exceed \$15,000 may be deferred until the lot is developed as provided by Resolution 03-55 (attached).**

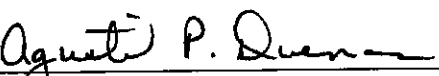
#### Annual Fee Adjustment

TMC 13.09.115 states that an annual percentage rate shall be applied to each property owner's fair share of the sewer line costs on the anniversary date of the reimbursement agreement. The Finance Director has set the annual interest rate at 6.05% as stated in City of Tigard Resolution No. 98-22.

#### Recommendation

It is recommended that a reimbursement district be formed with an annual fee increase as indicated above and that the reimbursement district continue for fifteen years as provided in the Tigard Municipal Code (TMC) 13.09.110(5). Fifteen years after the formation of the reimbursement district, properties connecting to the sewer would no longer be required to pay the reimbursement fee.

Submitted January 11, 2005

  
\_\_\_\_\_  
Agustin P. Duenas, P.E.  
City Engineer

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**FERN STREET**  
**Reimbursement District No. 32**

*Estimated Cost to Property Owners*  
*January 11, 2005*

OWNER	SITE ADDRESS	TAX LOT ID	AREA (S.F.)	ESTIMATED COST TO PROPERTY OWNER	PAID BY OWNER	PAID BY CITY
1 HAVILAND, RANDALL S TR & LEUEEN M	13625 SW FERN ST	2S104BD01300	21169.66925	\$7,748	\$6,000	\$1,748
2 ROMAN, CATHOLIC ARCHBISHOP OF PORTLAND	13665 SW FERN ST	2S104BD01400	22346.68844	\$8,179	\$6,000	\$2,179
3 BENETTI, MARCO A & SALLY A	13650 SW FERN ST	2S104BD02100	48852.1919	\$17,879	\$8,879	\$9,000
4 CLARKE, JOHN A & NANCY J	13620 SW FERN ST	2S104BD02300	43255.11633	\$15,831	\$6,831	\$9,000
5 CLARKE, JOHN A & NANCY J	NO ADDRESS (FERN ST,	2S104BD02102	44716.0566	\$16,366	\$7,366	\$9,000
			<b>Totals</b>	<b>180340</b>	<b>\$66,003</b>	<b>\$35,076</b>
						<b>\$30,927</b>

**FERN STREET**  
**Reimbursement District No. 32**

*Estimated Cost to Property Owners*  
*Summary*  
*January 11, 2005*

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<b>Estimated Construction Cost</b>	<b>\$50,567</b>
15% contingency (construction)	\$7,585
<b>Estimated construction subtotal</b>	<b>\$58,152</b>
 13.5% contingency (Admin & Eng)	 \$7,851
<b>total project costs</b>	<b>\$66,003</b>
 total area to be served (S.F.)	 180,340
 total cost per S.F. to property owner	 <b>\$0.36599023</b>

FERN STREET  
SANITARY SEWER IMPROVEMENTS REIMBURSEMENT DISTRICT #32  
A PORTION OF THE NE 1/4 OF SECTION 4 T2S R1W W.M.

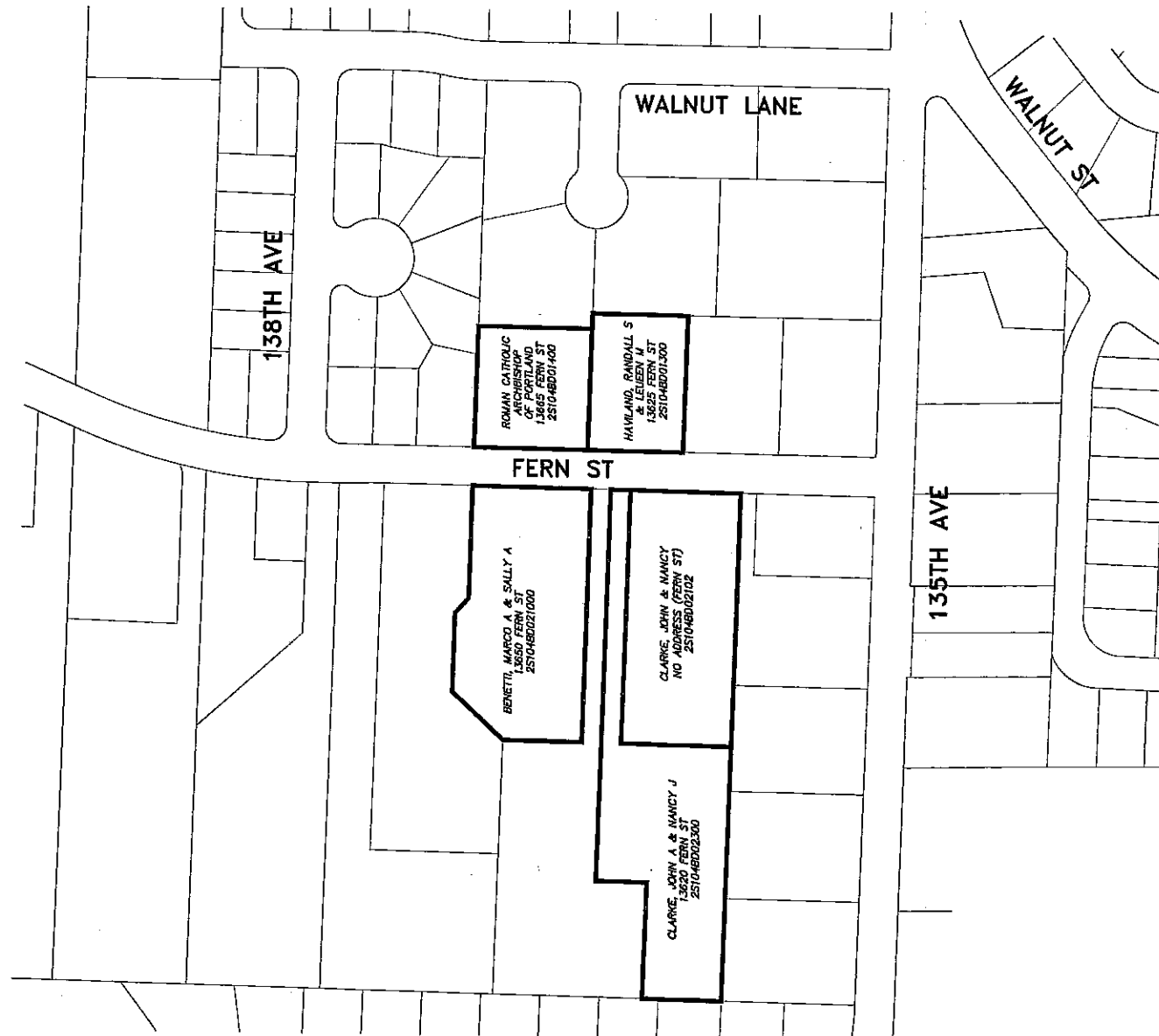
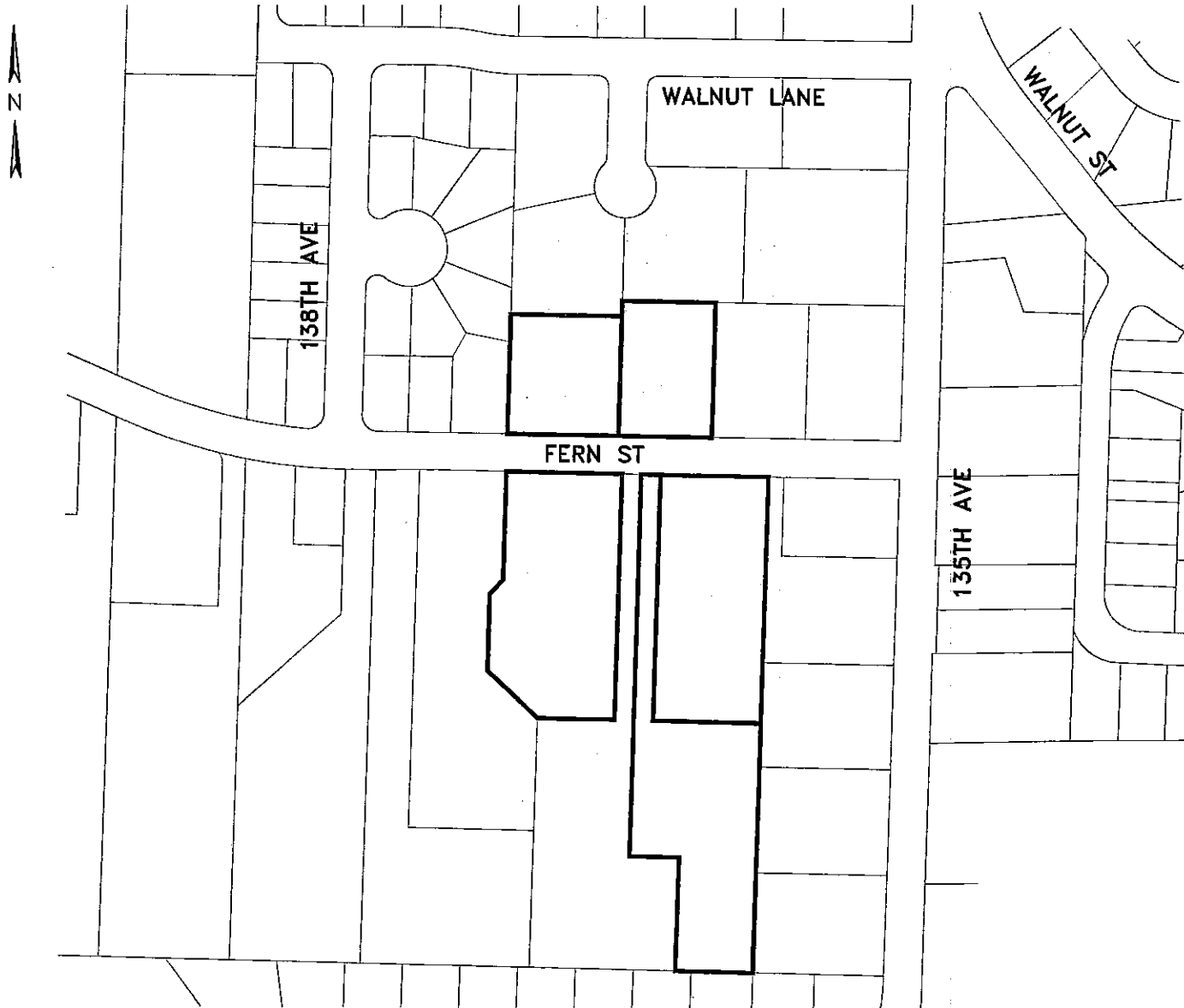


EXHIBIT B

FERN STREET  
SANITARY SEWER IMPROVEMENTS REIMBURSEMENT DISTRICT #32  
A PORTION OF THE NE 1/4 OF SECTION 4 T2S R1W W.M.



VICINITY MAP

# Communications Plan

Attachment 3

## Sanitary Sewer Reimbursement District No. 32 (SW Fern Street)

**Goal:** Construction of a Sanitary Sewer Extension for Reimbursement District No. 32.

**Timeline:** FY 04-05 Construction Season.

**Communication Goal:** To communicate to property owners within the Sanitary Sewer Reimbursement District the estimated cost of connecting to the public sanitary sewer line, the construction schedule, and final cost for the Reimbursement District.

Date	Item	Description	Responsibility
3/18/04	General Meeting	Explain Program to Reimbursement District property owners proposed for FY04-05	Engineering Manager
9/9/04	Neighborhood Meeting Notice	Mail Meeting Notice to property owners within the Reimbursement District No. 32	Engineering Clerical Services
	Events Calendar	Post Meeting on Web Page Events Calendar	Engineering Clerical Services
9/22/04	Neighborhood Meeting	Meet with property owners to review estimated costs and construction activity.	Engineering Manager Consultant
1/10/05	Hearing Notice	Mail Notice of formation of Reimbursement District to Property Owners	Engineering Clerical Services
1/25/05	Formation Hearing	City Council reviews and forms proposed Sanitary Sewer District	City Engineer
1/27/05	Notice of Decision	Mail Notice of Decision to property owners within District	Engineering Clerical Services
	Lateral Locations	Confirm with property owners location of laterals	Inspector
	Construction Notice	Hang Construction Notice on doorknobs of property owners impacted by project	Inspector Contractor
	Construction Inspection	Inspector is available to receive and respond to complaints	Inspector
	Notice to property owners of final hearing	Send hearing notice, Resolution, property owner cost to each property owner.	Project Engineer Engineering Clerical Services
	Final Notice	Send approved Resolution with final costs to each property owner	Project Engineer Engineering Clerical Services

Prepared by: G. N. Berry

Approved by: August P. Quenas

I:\eng\2004-2005 fy cip\walnut street - phase 3 (by county)\reimbursement district 32-fern street\city council\formation\11-23-04 reim dist 32 communications plan.doc

## **Proposed Sanitary Sewer Reimbursement District No. 32 (SW Fern Street)**

In a letter dated November 8, 2004, you received notice of a hearing to form a sewer reimbursement district to provide your neighborhood with sewer service. The result of that hearing was withdrawn and is now scheduled for January 25, 2005, as described in the attached notice.

As before, there is no requirement to connect to the sewer or pay any fee until connection is made. Each property owner's estimated fair share of the public sewer line is based on the area of the lot served and is summarized in the attached tables. Please note that the proposed district has been reduced from six to five lots so there is a corresponding increase to the estimated cost to each property owner.

In addition, the total estimated project cost has been increased to include the cost of easements. This amount will be revised once construction is completed and final costs are determined. An annual increase of 6.05% simple interest will also be applied to this amount.

The amount each property owner will be required to pay will be limited to \$6,000 for connections completed within three years of City Council approval of the final City Engineer's Report following construction, in accordance with Resolution 01-46.

Please note that this resolution also requires the owner to pay any fair share amounts that exceed \$15,000. Consequently, if the final fair share for an owner exceeds \$15,000, the owner would be required to pay \$6,000 plus the amount the fair share exceeds \$15,000. Under Resolution 03-55, payment of the amount in excess of \$15,000 may be deferred until the owner's lot is developed.

The owner would also be required to pay a connection fee of \$2,535 at the time of connection to the sewer. In addition, property owners are responsible for disconnecting their existing septic system according to Washington County rules and for any other modifications necessary to connect to the public sewer.

2S104BD01300  
HAVILAND, RANDALL S TR & LEUEEN M  
13625 SW FERN ST  
TIGARD OR 97223

2S104BD02100  
BENETTI, MARCO & SALLY  
13650 SW FERN ST  
TIGARD OR 97223

2S104BD01400  
ROMAN CATHOLIC ARCHBISHOP OF PTL  
13665 SW FERN STREET  
TIGARD OR 97223

2S104BD02300 & 02102  
CLARKE, JOHN & NANCY  
13620 SW FERN ST  
TIGARD OR 97223

## CITY OF TIGARD, OREGON

RESOLUTION NO. 01-46**A RESOLUTION REPEALING RESOLUTION NO. 98-51 AND ESTABLISHING A REVISED AND ENHANCED NEIGHBORHOOD SEWER REIMBURSEMENT DISTRICT INCENTIVE PROGRAM**

WHEREAS, the City Council has initiated the Neighborhood Sewer Extension Program to extend public sewers through Reimbursement Districts in accordance with TMC Chapter 13.09; and

WHEREAS, on October 13, 1998, the City Council established The Neighborhood Sewer Reimbursement District Incentive Program through Resolution No. 98-51 to encourage owners to connect to public sewer. The program was offered for a two-year period after which the program would be evaluated for continuation; and

WHEREAS, on September 26, 2000, the City Council extended The Neighborhood Sewer Reimbursement District Incentive Program an additional two years through Resolution No. 00-60; and

WHEREAS, City Council finds that residential areas that remain without sewer service should be provided with service within five years; and

WHEREAS, Council has directed that additional incentives should be made available to encourage owners to promptly connect to sewers once service is available and that owners who have paid for service provided by previously established districts of the Neighborhood Sewer Extension Program should receive the benefits of the additional incentives.

**NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:**

**SECTION 1:** Resolution No. 98-51 establishing the Neighborhood Sewer Reimbursement District Incentive Program is hereby repealed.

**SECTION 2:** A revised incentive program is hereby established for the Neighborhood Sewer Extension Program. This incentive program shall apply to sewer connections provided through the sewer reimbursement districts shown on the attached Table 1 or established thereafter. All connections qualifying under this program must be completed within three years after Council approval of the final City Engineer's Report following a public hearing conducted in accordance with TMC Section 13.09.105 or by two years from the date this resolution is passed, whichever is later, as shown on the attached Table 1.

**SECTION 3:** To the extent that the reimbursement fee determined in accordance with Section 13.09.040 does not exceed \$15,000, the amount to be reimbursed by an owner of a lot zoned single family residential shall not exceed \$6,000 per connection, provided that the lot owner complies with the provisions of Section 2. Any amount over \$15,000 shall be reimbursed by the owner. This applies only to the reimbursement fee for the sewer installation and not to the connection fee, which is still payable upon application for

sewer connection.

**SECTION 4:** The City Engineer's Report required by TMC Chapter 13.09 shall apply the provisions of this incentive program. Residential lot owners who do not connect to sewer in accordance with Section 2 shall pay the full reimbursement amount as determined by the final City Engineer's Report.

**SECTION 5:** Any person who has paid a reimbursement fee in excess of the fee required herein is entitled to reimbursement from the City. The amounts to be reimbursed and the persons to be paid shall be determined by the Finance Director and approved by the City Manager. There shall be a full explanation of any circumstances that require payment to any person who is not an original payer. The Finance Director shall make payment to all persons entitled to the refund no later than August 31, 2001.

**SECTION 6:** The Sanitary Sewer Fund, which is the funding source for the Neighborhood Sewer Reimbursement District Program, shall provide the funding for the installation costs over \$6,000 up to a maximum of \$15,000 per connection.

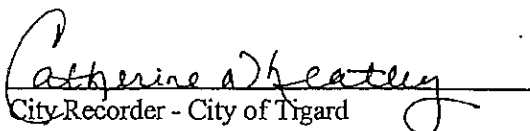
**EFFECTIVE DATE:** July 10, 2001

**PASSED:**

This 10<sup>th</sup> day of July 2001.

  
Mayor - City of Tigard

**ATTEST:**

  
City Recorder - City of Tigard

I:\Citywide\Res\Resolution Revising the Neighborhood Sewer Incentive Program

**TABLE 1**  
**Reimbursement Districts with Refunds Available**

DISTRICT	FEE PER LOT	REIMBURSEMENT AVAILABLE	INCENTIVE PERIOD ENDS
TIGARD ST.No.8	5,193	No reimbursement available	
FAIRHAVEN ST/WYNo.9	4,506	No reimbursement available	
HILLVIEW ST No.11	8,000		July 11, 2003
106 <sup>TH</sup> & JOHNSON No.12	5,598	No reimbursement available	
100 <sup>TH</sup> & INEZ No.13	8,000		July 11,2003
WALNUT & TIEDEMAN No.14	8,000		July 11,2003
BEVELAND&HERMOSA No.15	5,036	No reimbursement available	
DELMONTE No.16	8,000		July 11,2003
O'MARA No.17	8,000		July 11,2003
WALNUT & 121 <sup>ST</sup> No.18	-	Amount to be reimbursed will be	Three years from service availability
ROSE VISTA No.20	-	determined once final costs are determined.	

\* Currently being constructed

**CITY OF TIGARD, OREGON**

**RESOLUTION NO. 03- 55**

**A RESOLUTION PROVIDING ADDITIONAL INCENTIVES TO THE NEIGHBORHOOD SEWER REIMBURSEMENT DISTRICT INCENTIVE PROGRAM (RESOLUTION NO. 01 - 46).**

---

**WHEREAS**, the City Council has initiated the Neighborhood Sewer Extension Program to extend public sewers through Reimbursement Districts in accordance with TMC Chapter 13.09; and

**WHEREAS**, on July 10, 2001, the City Council established the Revised and Enhanced Neighborhood Sewer Reimbursement District Incentive Program through Resolution No. 01-46 to encourage owners to connect to public sewer within three-years following construction of sewers; and

**WHEREAS**, Council has directed that additional incentives should be made available to encourage owners of large lots to promptly connect to sewers once service is available.

**NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:**

- SECTION 1:** In addition to the incentives provided by Resolution No. 01-46, any person whose reimbursement fee exceeds \$15,000 and wishes to connect a single family home or duplex to a sewer constructed through a reimbursement district may defer payment of the portion of the reimbursement fee that exceeds \$15,000, as required by Section 3 of Resolution No. 01-46, until the lot is partitioned or otherwise developed in accordance with a land use permit. The land use permit shall not be issued until payment of the deferred amount is made. The Annual Fee Adjustment required by TMC Section 13.09.115 shall not apply to payment of this deferred amount.
- SECTION 2:** Lots that qualify under Section 1, within reimbursement districts that have exceeded the three-year period for connection, and have not connected to sewer can connect the existing structure, pay a reimbursement fee of \$6,000, and defer payment of the portion of the reimbursement fee that exceeds \$15,000 if connection to the sewer is completed within one year after the effective date of this resolution.
- SECTION 3:** Vacant lots improved with a single family home or duplex during the term of the reimbursement district shall qualify for the provisions of Resolution No. 01-46, pay \$6,000 if the fee exceeds that amount, and may defer payment of the portion of the reimbursement fee that exceeds \$15,000 as provided by Section 1.
- SECTION 4:** Vacant lots that are partitioned, subdivided, or otherwise developed during the life of the reimbursement district shall qualify for the provisions of Resolution No. 01-46, shall pay a reimbursement fee of \$6,000, and shall pay any amount due over \$15,000 at the time of development. The Annual Fee Adjustment required by TMC Section 13.09.115 shall not apply to payments made under this section.
- SECTION 5:** The owner of any lot for which deferred payment is requested must enter into an agreement with the City, on a form prepared by the City Engineer, acknowledging the

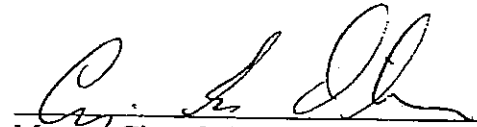
owner's and owner's successors obligation to pay the deferred amount as described in Section 1. The City Recorder shall cause the agreement to be filed in the office of the County Recorder to provide notice to potential purchasers of the lot. The recording will not create a lien. Failure to make such a recording shall not affect the obligation to pay the deferred amount.

SECTION 6: Any person who qualifies under Section 1 and has paid a reimbursement fee for the portion of the reimbursement fee in excess of \$15,000 is entitled to reimbursement for that amount from the City upon request. The amounts to be reimbursed and the persons to be paid shall be determined by the Finance Director and approved by the City Manager. There shall be a full explanation of any circumstances that require payment to any person who is not an original payer. Any person requesting a refund must sign an agreement similar to that described in Section 5 acknowledging the obligation to pay the refunded amount upon partitioning or developing the lot.

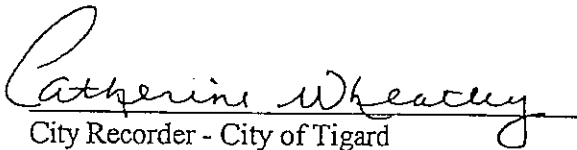
SECTION 7: The Sanitary Sewer Fund continues to remain the funding source for the Neighborhood Sewer Reimbursement District Program and shall provide the funding for the installation costs over \$6,000 up to a maximum of \$15,000 per connection and for any deferred payment permitted by this resolution.

SECTION 8: This resolution is effective immediately upon passage.

PASSED: This 14<sup>th</sup> day of October 2003.

  
~~Mayer~~ City of Tigard  
Craig E. Dirksen, Council President

ATTEST:

  
Catherine Wheahey  
City Recorder - City of Tigard

\\hmg\greg\reimbursement districts\revisions res 01-45 aug 26 03\oct 14 03 council\10-14-03 addition to res 1-46 res.doc

# INTERGOVERNMENTAL AGREEMENT

## MAJOR STREETS TRANSPORTATION IMPROVEMENT PROGRAM FOR ROADWAY IMPROVEMENTS TO:

SW WALNUT STREET: SW 121<sup>st</sup> AVENUE to SW 135<sup>th</sup> AVENUE  
CITY OF TIGARD

### AMENDMENT NO. 1

THIS AMENDMENT modifies the Agreement dated February 24, 2004, between WASHINGTON COUNTY, acting by and through its Elected Officials, hereinafter referred to as "COUNTY"; and the CITY OF TIGARD, acting by and through its City Council, hereinafter referred to as "CITY."

### WITNESSETH

#### ARTICLE 1 - RECITALS

WHEREAS, the COUNTY and CITY have determined that because of the proposed closure of SW Walnut Lane at the intersection of SW Walnut Street and SW 135<sup>th</sup> Avenue, SW Fern Street, from SW 135<sup>th</sup> to SW 138<sup>th</sup>, will receive an increase in traffic volumes as residents will be diverted to use SW Fern Street for access purposes because of the closure of SW Walnut Lane; and

WHEREAS, the COUNTY and CITY have determined that SW Fern Street, from SW 135<sup>th</sup> to SW 138<sup>th</sup>, is deficient to safely handle the projected increase in traffic volume in its current state; and

WHEREAS, the COUNTY and CITY have determined that safety and road improvements consisting of widening, new pavement, extruded curbs, storm and sanitary sewer modifications, herein after referred to as "Fern Street Improvements", should be undertaken; and

WHEREAS, the COUNTY and CITY have agreed to include these road and safety improvements as part of the SW Walnut Street Improvement Project, and both parties desire to modify the original Agreement to include this increase in scope and costs, and CITY agrees to pay for such improvement work that is further described and shown on attached Exhibit A.

NOW, THEREFORE, in consideration of the premises and of the covenants and agreements to be kept and performed by the parties hereto, it is agreed that the original agreement is hereby amended as follows:

## **ARTICLE 2 – WASHINGTON COUNTY OBLIGATIONS**

1. COUNTY shall perform, or cause to be performed, all actions necessary for the design and construction of the Fern Street Improvements as part of PROJECT.
2. COUNTY shall review the Fern Street Improvements plans, bid items, quantities and technical specifications and incorporate the Fern Street Improvements as specific bid items into the bid documents for the PROJECT.
3. COUNTY shall, following the bid opening, notify the CITY of the amount of the construction cost of the Fern Street Improvements as contained in the bid and provide CITY the opportunity for review of the contract bid proposal prior to contract award.

## **ARTICLE 3 - CITY OF TIGARD OBLIGATIONS**

1. CITY shall provide all inspection and testing of the Fern Street Improvements in coordination with the COUNTY.

## **ARTICLE 4 - COMPENSATION**

1. DESIGN: As design work upon the PROJECT, including the Fern Street Improvements, is performed, County shall, on a quarterly basis, prepare and submit design invoices to CITY for the cost of the work for Fern Street Improvements. Estimated design costs are \$37,695.

Notwithstanding, the estimate of the costs shown above, the CITY shall reimburse the COUNTY for the actual amount of its cost incurred for the design of the Fern Street Improvements.

2. CONSTRUCTION: As construction work upon the PROJECT is performed, COUNTY shall, on a quarterly basis, prepare and submit construction invoices to the CITY for the construction of the Fern Street Improvements. Estimated construction costs for the Fern Street Improvements are \$114,900, not including overlay, which is estimated at \$5,500.

In addition to the Fern Street Improvements bid items, the CITY shall also pay COUNTY for any easement acquisition cost associated with the Fern Street Improvements, an allocated share of the costs of applicable lump sum contract items (i.e. mobilization, erosion control), extra work required for the Fern Street Improvements and non-construction costs. Non-construction costs include the cost of COUNTY services including project management and surveying which shall be calculated at a flat rate of five percent (5%) of the Fern Street Improvements

ARTICLE 5 – PROJECT DEFINITION AND SCOPE

2. SCOPE:

The scope of improvements associated with the PROJECT and described in the original Agreement shall remain unchanged, but include:

- A) CITY desired elements for improvements to SW Fern Street, from SW 135<sup>th</sup> to SW 138<sup>th</sup> Avenues, including road widening, new pavement, extruded curbs, storm and sanitary sewer modifications.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

DONE AND DATED this \_\_\_\_ day of \_\_\_\_\_, 2004.

CITY OF TIGARD

Mayor

Date: May 25, 2004

ATTEST:

City Recorder

WASHINGTON COUNTY, OREGON

Chair

Date: 7-6-04

APPROVED WASHINGTON COUNTY  
BOARD OF COMMISSIONERS

MINUTE ORDER # 04-149

DATE 5/11/04

Recording Secretary

APPROVED AS TO FORM:

Loretta S. Skurdahl

Senior Assistant County Counsel

AGENDA ITEM # 10  
FOR AGENDA OF January 25, 2005

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE An Ordinance Adopting Tualatin Valley Fire & Rescue (TVF&R) Ordinance 04-01, Amending the 2004 Oregon Fire Code and Declaring an Emergency

PREPARED BY: Gary Lampella DEPT HEAD OK [Signature] CITY MGR OK [Signature]

ISSUE BEFORE THE COUNCIL

Should Council approve an ordinance to adopt Tualatin Valley Fire & Rescue (TVF&R) Ordinance 04-01, amending the 2004 Oregon Fire Code?

STAFF RECOMMENDATION

Staff recommends Council approval of an ordinance to adopt Tualatin Valley Fire & Rescue Ordinance 04-01.

INFORMATION SUMMARY

Tualatin Valley Fire & Rescue is the agency that provides fire prevention and firefighting services to the City of Tigard. They are granted authority by the Office of the State Fire Marshal to amend the State adopted Fire Code.

The State Fire Marshal adopted the 2003 edition of the International Fire Code on October 1, 2004. After adoption, the International Fire Code then became the 2004 Oregon Fire Code. Tualatin Valley Fire & Rescue further authored amendments to the Oregon Fire Code by way of TVF&R Ordinance 04-01. The proposed ordinance before Council would effectively adopt those amendments. The City Council has historically adopted previous Tualatin Valley Fire & Rescue ordinances whenever a new edition of the fire code was adopted.

Some of the major points in the TVF&R Ordinance are:

- Reference to Oregon Revised Statute 478.910, which grants authority to adopt a Fire Code; and
- Limits fire flow for buildings to 3,000 gallons per minute and sets a minimum of 1,000 gallons per minute for 1&2 family dwellings; and
- Creates hazard multiplication factors for determining fire flow.

Since the 2004 Oregon Fire Code has already been adopted by TVF&R and the State Fire Marshal, and because this ordinance is necessary for the preservation of the health, safety and welfare of the City, staff is requesting that an emergency be declared and that this ordinance become effective immediately on passage.

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### OTHER ALTERNATIVES CONSIDERED

Do not adopt the ordinance. This will cause the City of Tigard to be inconsistent with other jurisdictions served by Tualatin Valley Fire & Rescue in application of the fire code.

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### VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Public Safety, Goal #1. "The community residents, business owners, and service providers understand their roles through effective communications to successfully enhance public safety and emergency services."

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### ATTACHMENT LIST

Attachment 1: Proposed Ordinance Adopting Tualatin Valley Fire & Rescue Ordinance 04-01, Amending the 2004 Oregon Fire Code  
Exhibit A: Tualatin Valley Fire & Rescue Ordinance 04-01

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### FISCAL NOTES

N/A

CITY OF TIGARD, OREGON

ORDINANCE NO. 05-\_\_\_\_\_

AN ORDINANCE ADOPTING TUALATIN VALLEY FIRE & RESCUE ORDINANCE 04-01,  
AMENDING THE 2004 OREGON FIRE CODE AND DECLARING AN EMERGENCY

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WHEREAS, Tualatin Valley Fire & Rescue (TVF&R) provides fire prevention and firefighting services to the City of Tigard; and

WHEREAS, TVF&R is granted authority by the Office of the State Fire Marshal to amend the State adopted Fire Code; and

WHEREAS, the State Fire Marshal adopted the 2003 edition of the International Fire Code on October 1, 2004; and

WHEREAS, when the State adopted the 2003 edition of the International Fire Code, it became the 2004 Oregon Fire Code; and

WHEREAS, TVF&R further amended the 2004 Oregon Fire Code with Ordinance 04-01, as shown in Exhibit "A"; and

WHEREAS, this ordinance will adopt those amendments made to the 2004 Oregon Fire Code; and

WHEREAS, the City Council has historically adopted previous Tualatin Valley Fire & Rescue ordinances whenever there was a new edition of the fire code; and

WHEREAS, it is necessary to adopt these amendments in order for Tualatin Valley Fire & Rescue to apply the Fire Code within the City of Tigard,

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The City of Tigard adopts amendments to the 2004 edition of the Oregon Fire Code as amended by Tualatin Valley Fire & Rescue and shown in Exhibit A, Ordinance 04-01.

SECTION 2: Because this ordinance is necessary for the preservation of the health, safety and welfare of the City, an emergency is declared to exist and this ordinance shall be in full force and effect immediately on passage.

PASSED: By \_\_\_\_\_ vote of all Council members present after being read by number and title only, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Craig Dirksen, Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

## ORDINANCE 04-01

**AN ORDINANCE ADOPTING FIRE CODES AND STANDARDS FOR TUALATIN VALLEY FIRE AND RESCUE A RURAL FIRE PROTECTION DISTRICT, PRESCRIBING REGULATIONS GOVERNING CONDITIONS HAZARDOUS TO LIFE AND PROPERTY FROM FIRE OR EXPLOSION, PROVIDING FOR THE ISSUANCE OF PERMITS FOR HAZARDOUS USES OR OPERATIONS, AND REPEALING ORDINANCE 99-01.**

WHEREAS, Tualatin Valley Fire & Rescue A Rural Fire Protection District, has developed uniform fire regulations for the jurisdictions served; and,

WHEREAS, Tualatin Valley Fire and Rescue A Rural Fire Protection District, hereinafter referred to as the District, desires to and finds it necessary to adopt the following regulations to provide minimum fire safety and that a plan for inspections and maintenance will upgrade existing structures, thereby reducing hazards of fire, thus does hereby adopt the following regulations; and now, therefore,

### **IT IS ORDAINED AS FOLLOWS:**

#### **TITLE AND FILING:**

This ordinance, including the codes hereby adopted, shall be filed in the record of the District and in the office of Washington, Multnomah, and Clackamas County Clerks and State Fire Marshal's office as prescribed by ORS 478.940. A copy shall be posted at each fire station within the District. From the date on which this ordinance shall take effect, provisions thereof shall be controlling within the territorial limits of the District and within each city or county within the District approving pursuant to ORS 478.924. The whole of this ordinance shall be known as the Fire Prevention Code and may be referred to as the Fire Code and shall be enforced by the Fire Marshal's Office created by Ordinance 91-02.

#### **SCOPE:**

The purpose of this code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises and to provide safety to fire fighters and emergency responders during emergency operations as authorized by ORS 478.910

### **SECTION I – ADOPTION OF THE OREGON FIRE CODE:**

The following code is hereby adopted by the District for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion. Those certain codes and standards known as the:

- A. The International Fire Code, 2003 Edition, as published and copyrighted by International Fire Code Council as amended and adopted by the Oregon State Fire Marshal's Office and known as The Oregon Fire Code, except as hereinafter amended by this ordinance.

## SECTION II – ENFORCEMENT OF CODE

Notwithstanding provisions in the Oregon Fire Code authorizing or requiring inspections of buildings and premises or testing of fire protection systems and equipment, e.g. Sections 106.2, 901.6 and 907.20.2 or provisions providing for enforcement of the Code, such inspections, testing and enforcement of the Code shall be discretionary by the Chief and other individuals charged by the Chief with such activities. The District recognizes that it has limited financial resources with which to provide fire, rescue and other services and functions and is forced to make public policy decisions as to allocation of District resources. Although the District places a high priority on prevention, inspection and maintenance of fire systems, due to financial limitations, it is the Board's policy to require inspections only so often as necessary to provide a reasonable level of fire and life safety. Accordingly, although the Fire Chief and other individuals charged by the Chief with these activities are encouraged to pursue them, performing such activities, as well as the scope and frequency of such activities, shall be within the discretion of the Fire Chief. It is the intention of the District to make clear that the District's duty to perform the inspections and testing, or to take enforcement actions, as set forth in the Code is limited to providing a reasonable level of fire and life safety. Such actions are discretionary.

## SECTION III – AMENDMENTS MADE IN THE OREGON FIRE CODE:

The Oregon Fire Code, based on the 2003 Edition of the International Fire Code, is amended and changed in the following respects:

1. **Section 101.3** is amended as follows:

**101.3 Intent.** The purpose of this code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises and to provide safety to fire fighters and emergency responders during emergency operations as authorized by ORS 476.030 and 478.910.

2. **Section 104.1** is amended as follows:

**104.1 General.** The fire code official is hereby authorized to enforce the provisions of this code as directed in ORS 476.060, 478.910 and OAR Chapter 837, Division 39 and shall have the authority to adopt policies, procedures, rules and regulations in order to clarify the application of its provisions. Modifications to this code shall not be less stringent than the minimum fire code adopted by the State Fire Marshal. Such policies, procedures, rules and regulations shall be in compliance with the intent and purpose of this code and shall not have the effect of waiving requirements specifically provided for in this code.

ORS 476.060, 478.910 and OAR Chapter 837, Division 39 are not a part of this code but are reproduced or paraphrased here for the reader's convenience.

ORS 476.060 designates local fire marshals. Local fire chiefs and chief of police as assistants to the State Fire Marshal by virtue of office held.

ORS 478.910 grants the authority to a district board to adopt a fire prevention code.

OAR Chapter 837, Division 39 regulates the administration of fire prevention programs.

3. **Appendix B, Section B105** is amended as follows:

**B105.1 Required Fire Flow:** No building shall be constructed, altered, enlarged, moved, or repaired in a manner that by reason of size, type of construction, number of stories, occupancy, or any combination thereof creates a need for a fire flow in excess of 3,000 gallons per minute at 20 pounds per square inch residual pressure, or exceeds the available fire flow at the site of the structure. The requirements for determining fire flow for all buildings are as set forth in Oregon Fire Code, Appendix B.

**EXCEPTION:** Fire flow requirements in excess of 3,000 gallons per minute may be allowed if, in the opinion of the chief, all reasonable methods of reducing the fire flow have been included within the development and no unusual hazard to life and property exists.

Existing buildings that require a fire flow in excess of 3,000 gallons per minute are not required to comply with the fire flow requirements of this section. However, changes in occupancies or the character of occupancies, alterations, additions or repairs shall not further increase the required fire flow for buildings.

**B105.1.1 One- and Two-Family Dwellings.** The minimum fire flow requirements for one- and two-family dwellings having a fire flow calculation area which does not exceed 3,600 square feet (344.5 m<sup>2</sup>) shall be 1,000 gallons per minute (3785.4 L/min.). Fire flow and flow duration for dwellings having a fire flow calculation area in excess of 3,600 square feet (344.5 m<sup>2</sup>) shall not be less than that specified in Table B105.1.

- EXCEPTION:** 1. A reduction in required fire flow of 50 percent, as approved, is allowed when the building is provided with an approved automatic sprinkler system.
2. When there are not more than one each, Group R, Division 3 and Group U occupancies or agricultural building, as defined by ORS 455.315, on a single parcel of not less than one acre, the requirements of this section may be modified provided, the Group R, Division 3 occupancy does not require a fire flow in excess of 1500 gpm (based on NFPA Standard 1142) and in the opinion of the chief, firefighting or rescue operations would not be impaired.

**B105.2 Buildings other than One- and Two-Family Dwellings.** The minimum fire flow and flow duration shall be determined by the size and construction type of the structure under consideration. ~~for buildings other than one- and two- family dwellings shall be as specified in Table A-III-A-1.~~

**EXCEPTION:** ~~A reduction in required fire flow of up to 50 percent, as approved, is allowed when the building is provided with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 of the *International Fire Code*. Where buildings are also of Type I or II construction and are a light-hazard occupancy as defined by NFPA 13, the reduction may be up to 75 percent. The resulting fire flow shall not be less than 1,500 gallons per minute (5677.5 L/min.) for the prescribed duration as specified in Table B105.1~~

**B105.2.1 Occupancy Hazards**

**5.2.1.1 Single Occupancy Hazards.** Where only a single occupancy hazard is housed in a building the minimum required building fire flow shall be multiplied by the hazard factor in Table B105.2 to determine the total required fire flow.

**B105.2.2 Multiple Occupancy Hazards.** Where more than one hazard is housed in a building the minimum required building fire flow shall be proportioned by percentage of the floor area used for

each occupancy hazard. The proportioned building fire flow shall be multiplied by the hazard factor, relating to that portion of the building in Table B105.2 and totaled to determine the required fire flow.

Table B105.2

<u>Light Hazard Occupancies</u>	<u>1.0</u>
<u>Ordinary Hazard (Group 1)</u>	<u>1.2</u>
<u>Ordinary Hazard (Group 2)</u>	<u>1.3</u>
<u>Extra Hazard (Group 1)</u>	<u>1.4</u>
<u>Extra Hazard (Group 2)</u>	<u>1.5</u>

B105.2.3 The total required fire flow may be reduced by one of the following options, but in no case shall be less than 1500 GPM @ 20 psi residual.

1. Reduced by 75 percent where a complete approved automatic fire extinguishing system meeting the requirements of NFPA 13, is installed throughout the building and the system is electronically supervised and is monitored by an approved central receiving station.

2. Reduced by 25 percent where an approved automatic and manual fire alarm system is installed throughout the building that is monitored by an approved central receiving station. The systems shall meet the requirements of NFPA 72.

#### **SECTION IV – PENALTIES**

Any person who violates any of the provisions of these regulations hereby adopted or fails to comply therewith, or violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statements, specification or plans submitted and approved thereunder and from which no appeal has been taken, or shall fail to comply with such an order as affirmed or modified by the Board of Appeals or by a court of competent jurisdiction within the time affixed herein, shall severally, for each and every such violation and non-compliance respectively, be guilty of a violation of the Fire Prevention Code as provided in ORS 478.930, punishable upon conviction as prescribed by ORS 478.990. All fines or punishments authorized upon conviction shall include the costs to the District to remedy the violation including costs of towing, storage or removal of the hazard or obstruction if necessary.

Any person who violates the provisions of ORS 478.960 (Burning of certain materials permitted only with permission of the Chief; Burning Schedule (1) through (8)) shall be guilty of a misdemeanor, shall severally, for each and every violation be punishable upon conviction as prescribed by ORS 478.990 and shall be subject to costs under 478.965.

The Chief or designated representative may bring a complaint in law or in equity to alleviate a violation of this ordinance as well as in addition to the rights to enforce said ordinance under the provisions of ORS 478.930 and ORS 478.990.

## SECTION V – FIRE CODE BOARD OF APPEALS

As authorized by ORS 479.180, the District may establish a board of appeals. Such board of appeals may be implemented through bylaws and other procedures adopted by ordinance of the District. In the event that the fire district Board adopts a board of appeals, the provisions of this ordinance, where appropriate, are subject to the board of appeals procedures.

## SECTION VI – REPEAL OF CONFLICTING ORDINANCES

Pursuant to ORS 478.924, the provisions of this ordinance, i.e. the Fire Code, shall be controlling within the territorial limits of the District and within each city or county within the District approving pursuant to ORS 478.924. The existing fire code, Ordinance 99-01, has been approved within each city and county within the District. The District desires that the existing fire code continue in effect until such time as the cities and counties within the District have approved this new Fire Code pursuant to ORS 478.924. Accordingly, Ordinance 99-01, and all former ordinances or parts thereof, which are conflicting or inconsistent with the provisions of this ordinance or of the code or standards hereby adopted, are hereby repealed, effective the effective date of this ordinance; provided, however, that Ordinance 99-01 shall continue in effect in each city or county which has approved it until the city or county approves this Ordinance 04-01. Further, prosecutions or violations under repealed ordinances may continue after the effective date of this ordinance.

## SECTION VII – VALIDITY

The District hereby declares that should any section, paragraph, sentence or word of this ordinance or of the Codes or Standards hereby adopted be declared for any reason to be invalid, it is the intent of the District that it would have passed all other portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

## SECTION VIII – DATE OF EFFECT

The Board of Directors of the Fire District finds and determines that it is necessary and expedient that the provisions of this ordinance become effective 30 days following the final reading.

First reading by Title only this 26<sup>th</sup> day of OCTOBER, 2004.

Second reading by Title only this 16<sup>th</sup> day of NOVEMBER, 2004.

PASSED by the District this 16<sup>th</sup> day of NOVEMBER, 2004.

  
PRESIDENT

  
SECRETARY-TREASURER